PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 19 July 2007

(Extract from book 10)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

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Minister for Housing and Minister for Local Government	The Hon. R. W. Wynne, MP
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Joint committees

Scrutiny of Acts and Regulations Committee — (*Council*): Mr Dalla-Riva, Mr Eideh, Mr Elasmar and Ms Pulford. (*Assembly*): Mr Brooks, Mr Carli, Mr Jasper, Mr McIntosh and Mr Thompson.

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

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THURSDAY, 19 JULY 2007

Thursday, 19 July 2007

The PRESIDENT (Hon. R. F. Smith) took the chair at 9.33 a.m. and read the prayer.

SUPERANNUATION LEGISLATION AMENDMENT (CONTRIBUTION SPLITTING AND OTHER MATTERS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Education).

PETITION

Following petition presented to house:

Nuclear energy: federal policy

To the Legislative Council of Victoria:

The petition of certain citizens of Victoria draws to the attention of the Legislative Council the commonwealth government's promotion of a nuclear industry in Australia, and the strong likelihood that Victoria will be selected as a site for the construction of a nuclear power facility.

The petitioners therefore request that the Legislative Council of Victoria reaffirm the opposition of the Victorian government to the creation of a nuclear industry in Victoria, including the construction of a nuclear power plant.

By Mr SCHEFFER (Eastern Victoria) (103 signatures)

Laid on table.

NOTICES OF MOTION

Notices of motion given.

Mr FINN giving notice of motion:

The PRESIDENT — Order! I advise members on my right that they are too loud and that they have been going on for too long. That is enough.

Mr FINN continued giving notice of motion.

Mr Leane interjected.

Notices interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Mr Leane's time has arrived for the first time. I ask him to leave the chamber for 30 minutes.

Mr Leane withdrew from chamber.

Notices resumed.

Mr FINN continued giving notice of motion.

Further notices of motion given.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Minister for Education) — I move:

That the Council, at its rising, adjourn until Tuesday, 7 August 2007.

Motion agreed to.

MEMBERS STATEMENTS

Floods: Gippsland

Mr P. DAVIS (Eastern Victoria) — I draw the attention of the house to an ongoing outcome of the floods in Gippsland on 27 June — that is, the failure of some insurance companies to accept claims by residents, in particular in the Newry area, for storm and flood damage. I raise this issue because it has now become a matter of significant public interest that several companies, including the Royal Automobile Club of Victoria and Wesfarmers, could have more than a week ago made it clear that they would be accepting such claims. Other companies have so far been unable to arrange their affairs so that they can make a decision. I believe this is an unacceptable impost on residents who are without homes and whose lives have been totally disrupted. In many cases families have been split up and children have had to go and stay with friends or neighbours while the families work out how they are going to restore and rehabilitate their homes, in some cases following significant flood damage.

Later today I am meeting with representatives of the insurance council, and I will be urging them to counsel their members on what I regard now as negligence in the decision-making processes of certain insurance companies. I will resist the temptation to name those companies who are in my view recalcitrant.

Bendigo: nightclub lockout

Mr DRUM (Northern Victoria) — Bendigo has recently been going through the process of working out how to best introduce a lockout to the nightclubs within the central business district. Lockouts that prohibit entry to nightclubs after a certain time have been put in place in various cities around Australia, and there have been varying degrees of success with each of these lockouts. The liquor licensing director, in conjunction with the Bendigo police, made initial decisions some months ago to instigate a 1.00 a.m. lockout, which angered the licensees of the nightclubs, who were concerned about such an early lockout creating more antisocial behaviour than it actually would fix. It was also thought that it would have an enormous economic impact on the nightclubs as well.

In the last two weeks it seems some sensible compromise has been made between the preferred times of both the licensees and the police, in conjunction with the Liquor Licensing Commission, about coming together with a preferred time. There is now only half an hour's difference between the preferred times of the police and the time preferred by the licensees. I now hope that in the next two weeks the parties can avoid a costly and confrontational VCAT (Victorian Civil and Administrative Tribunal) hearing, and they can continue to negotiate in good faith. Hopefully they can achieve an outcome of a time that is going to be workable and economic and will also create the correct balance between when the licensees shut their doors and no longer admit patrons to their nightclubs and when those who are no longer in a nightclub can then find their way home. Hopefully this outcome can be achieved without going to VCAT and undergoing a confrontational hearing.

NAIDOC Week: Ballarat

Ms PULFORD (Western Victoria) — On Tuesday of last week I attended a flag-raising ceremony at Ballarat Base Hospital to reflect on the achievements of the partnership between Ballarat Health Services and the Ballarat and District Aboriginal Cooperative. The ceremony saw both the Australian and Koori flags raised and was part of NAIDOC Week, a time when events are held around Australia to celebrate the culture, history and the achievements of Aboriginal and Torres Strait Islanders. It was a privilege to be part of the ceremony that recognised the efforts by NAIDOC and the Ballarat community to unify indigenous and non-indigenous people in the area.

It was disturbing to me that while these celebrations were taking place the Howard government's intervention in indigenous communities in the Northern Territory was taking shape. While urgent action needs to be taken on child abuse and the welfare of indigenous people in remote communities, the Howard government's rushed and opportunistic pre-election plan is not the answer, with its retrograde approach to land rights for indigenous people. The approach needs to go deeper than bans slapped on people who should have the same rights as everyone else in Australia. After a decade of utter neglect by the federal government, it is shameful that it takes a federal election year to see any action and for John Howard to stand up and take notice of what is undoubtedly this country's greatest shame — the treatment of this nation's first people.

First World War: Passchendaele 90th anniversary

Ms PENNICUIK (Southern Metropolitan) — Last Friday, 13 July, a ceremony was held in Belgium to mark the 90th anniversary of what came to be known as the Passchendaele campaign. This campaign lasted from July to November 1917. There were 38 000 Australian casualties, and more than 500 000 people were killed in just 100 days — that is over 2000 every day. Terrible weather turned the area into a quagmire that exacerbated the horrors that the soldiers on all sides were facing. In the end, after a mere 7 kilometre advance, nothing was gained for the loss of so many. I think of those men with sadness and anger that their lives were lost so needlessly. My grandfather, Walter Reid, 2nd Field Company, Australian Engineers, Australian Imperial Force, was lucky at 27 not to be killed or horribly wounded at Paaschendaele. He died when I was three.

If ever there was an example of the futility and brutality of war and the reckless disregard for men's lives by those in command, that was it. World War I was dubbed 'the war to end all wars', but sadly we know that was not so. At this time there are wars raging across the globe in places such as Darfur and Chechnya. John Howard on false pretences recklessly involved us in an illegal war that is causing havoc and misery inside Iraq and anger and unrest around the world. It is of critical importance that the international community continue to work for peaceful, negotiated solutions to conflicts.

Moorabbin Children's Traffic School: future

Mr THORNLEY (Southern Metropolitan) — I rise to take this opportunity to congratulate Mr Rob Hudson, the member for Bentleigh in the other place, for successfully taking a practical lead in the reopening

of the Moorabbin Children's Traffic School. As usual, it was only the government that was concerned with pursuing options to ensure the school could remain open, rather than desperately trying to score cheap political points. The member for Bentleigh, Mr Hudson, and Cr Nick Staikos of the Glen Eira council both committed themselves to finding a workable solution. I commend them and in particular wish Mr Mark Brodie and his team at Camelot Driving School the best of luck in running their school for years to come.

If we can be sure of one thing, it is that members opposite will never miss an opportunity to carp, but they rarely provide practical solutions. A bit like Mr Arafat from the Palestine Liberation Organisation, they never miss an opportunity to miss an opportunity. This is ironic in particular because while they claim to have a concern about road safety and teaching road safety, they do not actually do anything about it as in teaching these young kids or finding a solution. This is the same mob which has gone to the last two elections promising to increase speed tolerance on our roads, promising in a statistically certain way to cost lives — trading lives for votes. That is the ultimate irony. I commend Mr Hudson and in particular Mr Brodie and his team on their efforts to educate young children in road safety.

Buses: Dandenong services

Mr SOMYUREK (South Eastern Metropolitan) — I rise to congratulate the Minister for Public Transport on improvements to bus routes from Dandenong to Chadstone and Dandenong to Glen Waverley. Bus services from Dandenong to Chadstone and Dandenong to Glen Waverley will be extended to 6.00 a.m. to 9.00 p.m. on weekdays, 8.00 a.m. to 9.00 p.m. on Saturdays and public holidays, and 9.00 a.m. to 9.00 p.m. on Sundays, Christmas Day and Good Friday.

Dandenong and the surrounding areas such as Noble Park and Keysborough are well-established suburbs with a significant population of ageing residents who are reliant on public transport to get around. Social isolation due to a lack of mobility is a big concern for ageing citizens in our community. These extra bus services to two major regional shopping centres will assist in breaking some of that isolation and offer more independence to our ageing citizens. These increases in bus services are of course great news not only for our ageing citizens but for all our citizens who rely on public transport, as they will now have more flexibility in shopping and socialising.

These improvements to the services are part of the $1.4 billion overhaul of Melbourne's bus services announced in May 2006. Over the next 10 years $646 million will be spent on improving services on local bus routes across Melbourne. Over the next four years improvements will be made to more than 200 local bus routes, including providing extra services on weekdays and weekends, new bus routes in developing suburbs as they grow and more frequent services on priority routes.

Hume: municipal offices

Mr ELASMAR (Northern Metropolitan) — I rise to speak regarding an event that I attended on Monday, 16 July. I was invited to attend the opening of the new municipal offices of the Hume City Council. The mayor, Cr Gary Jungwirth, and his fellow councillors, together with the chief executive officer, Mr Darryl Treloar, made us all most welcome, and later council officers offered us a guided tour of their new facility.

I was extremely impressed with the modern, contemporary design of the new building. It is not only environmentally beautiful, it was also constructed to provide a safe and healthy workplace for the employees of the council. Hume City Council is to be congratulated on investing in the future. It has created a place where residents, ratepayers and municipal employees alike can enjoy their surroundings while conducting their business. This building project has been several years in the planning and at last has come to fruition. The final design achieved a 5-star green rating.

I commend the mayor, Gary Jungwirth, and his councillors for a magnificent effort on behalf of the constituents and residents within their municipality.

National Tree Day

Mr TEE (Eastern Metropolitan) — Sunday, 29 July, is National Tree Day. This is an important annual community event. This year the 12 millionth tree will be planted. I understand that to date 1.6 million volunteers have helped plant trees and shrubs at more than 20 000 tree day sites Australiawide. Planting native trees has a number of obvious advantages. It promotes biodiversity, improves air quality, provides food and shelter for Australian wildlife and helps global warming because trees absorb carbon dioxide.

Local communities have warmly embraced National Tree Day as a way of playing their role in improving the environment. This practical initiative by local communities stands in stark contrast to that of the

commonwealth whose only response to the environmental crisis is to promise to fix the environment after the election. In my electorate there are a number of sites where the community will be gathering to plant trees, including parks and schools. They include the Blind Creek Billabong in Ferntree Gully; and sites in Bulleen, Doncaster, Ringwood, Rowville, Box Hill, Burwood, Mitcham and Vermont. I encourage all those in the house to grab a spade and join their local communities to plant a tree on 29 July.

Gaming: problem gambling

Mr EIDEH (Western Metropolitan) — Gambling through the casinos and the thousands of slot machines across the state is a significant source of entertainment and local tourism for Victoria today. But there are also problems for those who allow gambling to become a disease.

With that in mind I wish to congratulate the Minister for Gaming in the other place, Daniel Andrews, and the Bracks Labor government for its funding of the Gambler's Help Line and related services. There has been $79 million provided for treatment services over five years and this includes a significant sum within Hume, a large region within my electorate. With funding from this government the Upper Hume Community Health Service is working hard to aid those in need, and I wish to congratulate them and the government for their commitment.

Make Poverty History Zero Seven Road Trip

Ms TIERNEY (Western Victoria) — I rise to mention a truly wonderful event that took place in the week beginning 1 July, the Make Poverty History Zero Seven Road Trip. It involved 500 of Australia's most dynamic young people as ambassadors to spread the Make Poverty History message, and inspire those they met to take action to end extreme poverty. I am aware of at least two students in my electorate who were ambassadors for the event. They were Deakin University student Christina Spehr and St Joseph's College student James Day.

The road trip involved six Make Poverty History concerts that provided regional communities, as well as capital cities, with a great opportunity to become involved in the campaign. I congratulate all those who were involved in the campaign, not only the ambassadors and organisers, but the people who participated in the concerts. It is essential that people in Australia campaign to stop extreme poverty around the world so that future generations do not live in such a divided world community. I, along with Christina, James and many others, demand that the federal government has the courage and the moral leadership on this issue and does not fall prey, yet again, to only stepping up to the mark when embarrassed.

STATEMENTS ON REPORTS AND PAPERS

Environment and Natural Resources Committee: production and/or use of biofuels in Victoria

Mr SCHEFFER (Eastern Victoria) — My statement is on the government response to the inquiry into the production and/or use of biofuels in Victoria. The final report of the inquiry into the production and use of biofuels in Victoria was released in December 2006 and the government response was tabled in May. The Environment and Natural Resources Committee of the 55th Parliament was asked to investigate the potential for Victoria to manufacture and use biofuels for transport and, more specifically, to look at the environmental, economic and social impacts of their use.

The committee was asked to examine the impact of a reduced need for oil imports if the reliance on biofuels were increased. It also looked at the barriers and incentives for increasing the use of biofuels for transport and at what kind of role government could play. The committee heard from 16 witnesses and received written submissions from 43 organisations, which included industry, scientific and professional bodies as well as government departments, local councils and community associations.

Biofuels are a renewable energy source made from organic material and industrial waste and can be used as alternative fuel for vehicles. Ethanol and biodiesel are the two most common types of biofuels that can be used for transport. The inquiry limits itself to ethanol and biodiesel. It makes five recommendations and lists nine findings, and it is worth spending a moment reviewing these.

The committee found that it is important to maintain community confidence in biodiesel and that care needs to be taken in developing and marketing different product blends. The committee also found that comprehensive assessments of the economic, social, environmental, health and employment benefits need to be undertaken before government decides to support particular products. The committee thought that energy security is not a big issue for Australia and therefore does not need to be a motivation for the development of a biofuel industry in this country. Finally, the

committee found there are good opportunities for Victoria to develop a competitive biodiesel industry.

The government response of course picks up the five recommendations and provides a useful introduction, which summarises the government's involvement in the Victorian biofuel industry. The Victorian government has been proactive in supporting development opportunities for the biofuel industry and is actively encouraging industry involvement in these alternative transport fuels. The government believes that biofuels are sustainable and are capable of reducing reliance on oil imports as well as helping to reduce greenhouse gas emissions and environmental pollution.

The government response points to *Driving Growth — A Road Map and Action Plan for the Development of the Victorian Biofuels Industry*, which was released in April this year and which is promoted as a road map and action plan for increased investment in the industry in Victoria. The government states that it supports the committee's first recommendation that a further reference to inquire into the production and use of biofuels in Victoria should be given to an appropriate investigatory committee in the 56th Parliament. The response states that the Legislative Assembly has already asked the Economic Development and Infrastructure Committee to look at the value of setting up mandatory ethanol and biofuel targets in Victoria.

The government also supports recommendation 4, which requires government vehicles to use blended fuels where they are available. The response says that the government will also trial the use of biodiesel for its own small fleet of heavy vehicles and will work to involve in the trial other bodies that run heavy vehicle fleets. An example is the Victorian Transport Association. The government has also agreed to conduct research on the costs and benefits associated with the use of biodiesel blends in public transport vehicles, and it has given in-principle support to recommendations 2 and 3 to initiate scientific research into the air-quality benefits of ethanol-blended and biodiesel fuel use. But the response notes that both these matters should be dealt with at a national level by the commonwealth government.

Both the final report of the inquiry and the government response to the recommendations make an important contribution to the development of sustainable energy sources. I commend both the report and the government response to the house.

Auditor-General: *Promoting Better Health through Healthy Eating and Physical Activity*

Mrs KRONBERG (Eastern Metropolitan) — My report today is to provide an account of the Victorian Auditor-General's report of June 2007 entitled *Promoting Better Health through Healthy Eating and Physical Activity*. The report encompasses health promotion, promoting physical activity and healthy eating; risks posed by physical inactivity and unhealthy eating; health promotions for local communities; health promotion for Aboriginal people; health promotion for school students; and strengthening the approach to health promotion.

Backgrounding the problems that society is facing here in Victoria, the Auditor-General highlighted the fact that in Australia approximately 70 per cent of disease is attributable to chronic conditions, the most common of which are cancer, heart disease, lung disease, stroke, diabetes, arthritis, asthma and depression. Furthermore, one-third of the chronic disease burden can be attributed to avoidable risk factors such as smoking, excessive alcohol consumption, physical inactivity, unhealthy eating and excess weight. Unfortunately lifestyle changes in activity levels, exercise and eating habits have led to rising levels of people becoming overweight or obese. The combined effects of physical inactivity and unhealthy eating are the most important preventable causes of chronic disease. Alarmingly their impact continues to increase.

The Auditor-General points to the significant economic and social costs resulting from these chronic diseases. Using the incidence of type 2 diabetes to dimension the problem for government, it is noted that the number of Victorians suffering diabetes increased by 77 per cent between 2001 and 2006 with an additional 68 000 sufferers. Direct health costs rose from $361 million in 2001 to $637 million in 2006. Based on current trends, forecasts are that more than $1 billion will be required to deal with our burden by the year 2015.

Given the growing importance of obesity problems, the Department of Human Services has taken a number of positive steps, such as setting up the Go for Your Life program, helping local agencies with promotional strategies and funding programs to collect objective information and to encourage increased physical activity and healthy eating.

However, the Auditor-General points out that the combined efforts of government have not significantly slowed the increase in obesity, which is a precursor to type 2 diabetes. Gaps and weaknesses identified by the

Auditor-General include the need to strengthen the evidence base used to guide and refine the state's investment, and the planning and coordination of programs across government. In order to respond in a focused and productive fashion, government agencies should build a better understanding of the risks and outcomes of unhealthy eating and physical activity. This should be achieved by increased monitoring and improved data gathering. Secondly, they should closely examine the practices that work best from the existing evidence and draw upon this knowledge when planning. Thirdly, they should maintain a consistent commitment to the evaluation of program effectiveness in terms of the impact on unhealthy eating and physical activity.

When strengthening their planning and coordination, government agencies should further improve the current cross-government plan to tackle obesity and make sure that the current governance arrangements are capable of delivering a plan. The Auditor-General also stressed that program funding normally lasts from one to four years, with no clear pathway to continue funding after the funding period expires. Typically, lead agencies fully fund programs for a fixed period, with funding then being provided on a reduced basis.

There is a wake-up call for the government embedded in this report, when we look at the chapter headed 'Risks posed by physical inactivity and unhealthy eating', where it states:

> Victoria currently allocates less than 1 per cent of recurrent health spending to health promotion.
>
> The cost of treating chronic conditions is rapidly increasing.

For instance, the audit estimated that the direct cost of diabetes has risen considerably in the seven-year period.

Auditor-General: *Promoting Better Health through Healthy Eating and Physical Activity*

Mr ELASMAR (Northern Metropolitan) — I also rise to speak about the Auditor-General's 2007 report, *Promoting Better Health through Healthy Eating and Physical Activity*. As a parent, I am often shocked when I see reports about the obesity epidemic that is currently rife amongst children in our community. When I see television advertisements for fast-food outlets — and we all know what they are — constantly bombarding our eyes and ears and every day promising delights and toys for our young ones, even I find it extremely hard to say no. But say no we must.

Recently, in an effort to promote healthier choices for our children, the Victorian government introduced Free Fruit Friday in our schools. Further initiatives regarding the sales of confectionery will soon be introduced to Victorian schools as a further measure to stem the rising tide of obesity in our young school attendees.

The Diabetes Australia lifestyle study independently measured the height and weight of a representative sample of Australian adults in 2000 and 2006. Diabetes Australia found that over that five years the proportion of those overweight had risen from 60 per cent to 68 per cent. Between 2002 and 2005 the proportion of adults classified as overweight or obese increased from 45.5 per cent to 47.9 per cent. As these figures are based on self-reported measures they are in all likelihood an underestimation of the true scale of the problem. Between 1985 and 1995 the proportion of Australian children between the ages of 7 and 15 years classified as obese doubled from 10 per cent to 20 per cent.

Figures from Diabetes Australia–Victoria show that type 2 diabetes is on the increase and that it is far more likely to occur in people who are overweight or obese. Currently more than 3.5 per cent of the Victorian population is registered as being diabetic and a similar number are thought to have the condition without knowing it. According to Diabetes Australia, a further 500 000 Victorians are estimated to be at risk of developing the condition.

There is now an urgent need to act to prevent any further escalation of this preventable and chronically debilitating disease. The implications of these trends are immense. While the federal government and the Victorian government have directed funding to treating diabetes, more funding is vital in the areas of detecting and preventing the disease. More education and training are clearly needed. Parents also need to start providing healthier food menus at home. Already schools have introduced healthier foods and are giving our young people the options of eating smarter. For those children already in the school system, physical training has received an extra boost with upgrades to school ovals. After-school activities must be encouraged more. Junior sport as exercise is one of the best ways to get a child off a computer and onto a safe playing arena.

The TV campaign Go for Your Life has been established to show healthy eating and the need for moderate sustainable exercise for all of us to live longer and enjoy a quality of life that does not include daily injections. I congratulate the department and commend the report and the minister.

Rural Finance Corporation: Treasurer's direction

Mr O'DONOHUE (Eastern Victoria) — I am pleased to make a contribution on the direction to the Rural Finance Corporation of Victoria by the Treasurer, John Brumby. I quote the entire direction to the chamber:

> I, John Brumby, MP, Treasurer of the state of Victoria, in accordance with section 6(b) and section 19(2) of the Rural Finance Act 1988 and all other powers vested in me thereunder, hereby direct Rural Finance Corporation of Victoria ('the corporation') to establish, operate and administer, in accordance with this instrument, state and government schemes of assistance where a decision is made by the responsible minister of the Victorian government to provide such assistance by way of interest subsidies, concessional loans, grants and/or any other form of assistance as determined from time to time.
>
> Any such scheme shall be established, operated and administered by the corporation in accordance with and subject to any relevant guidelines issued … by the responsible state or commonwealth minister.
>
> The administration of each state and commonwealth scheme of assistance is subject to confirmation from the Department of Treasury and Finance of state government funding approval.

It is dated 5 June 2007.

I considered it timely to make a statement on the Treasurer's comments and more broadly on the Rural Finance Corporation, given the recent floods and the exceptional circumstances declarations made by the federal government throughout country Victoria, particularly in the Eastern Victoria Region, that will be administered by the corporation.

On its website the corporation states that it supports farmers and rural businesses and has done so for over 60 years, with a range of specialist, flexible and competitive products and services. It states also that supporting farmers through periods of change has always been a high priority for rural finance. It understands the effects of seasonal variations and commodity price movements and how these affect rural businesses. It states also that rural finance is also charged with the responsibility of administering natural disaster relief schemes and other programs on behalf of the commonwealth and Victorian governments.

The Rural Finance Corporation is well respected by members on this side of the chamber. It discharges its functions well. Indeed it was intimately involved in the 1998 flood event that hit East Gippsland. I understand the corporation actually dispensed over $10 million in assistance to the people of East Gippsland after that flood event as part of the $62 million package provided by the then coalition government. That package was very well received by the communities of East Gippsland and Gippsland more generally.

As a result of the package of programs announced by this government in response to the recent flood events in Gippsland, the Rural Finance Corporation will be responsible for administering and dispensing small business loans of up to $200 000 at a concessional interest rate of 3 per cent for 15 years, loans to primary producers of up to $200 000 at a concessional interest rate of 3 per cent for 15 years, and loans of up to $100 000 to not-for-profit organisations also at 3 per cent for 15 years. These concessional loan arrangements have been welcomed by farmers, small business people and not-for-profit organisations in the Gippsland region.

However, I make the point that when you are running a farming enterprise these days or running a small business, whether it be associated with farming or the tourism industry — and let us not forget that the tourism industry is responsible for approximately one-third of the economic activity in East Gippsland — $200 000 does not necessarily go that far. If you need to buy a new tractor, it could cost you $500 000 or more. If you need to re-sow or replant your paddocks, you could easily spend more than $200 000 on that activity. I make the point that, while the concessional loan arrangements that have been announced by the government are welcome, they do not go far enough. The government should reconsider its position on this issue and raise those loan limits to help the businesses and farmers of Gippsland devastated by these floods.

Statements interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I wish to draw to the attention of members of the chamber that we have in the gallery today the Honourable Joan Kirner, a former Premier of the great state of Victoria, and the Honourable Kay Setches, a minister in the Cain and Kirner governments.

Statements resumed.

Auditor-General: *Promoting Better Health through Healthy Eating and Physical Activity*

Mr D. DAVIS (Southern Metropolitan) — I am pleased to make a contribution to the debate on reports today. I wish to talk about the *Promoting Better Health through Healthy Eating and Physical Activity* report of

the Victorian Auditor-General of June this year. In doing so I wish to compliment Mrs Kronberg for putting this report on the notice paper. It is a timely and very important report. It is a further instalment in a sequence of reports prepared by the Auditor-General looking at the performance of public sector programs in the Human Services area. Hospital management, dental services and a whole series of public services and health promotion areas have been examined by the Auditor-General through performance audits in recent times. This is a further instalment and a useful instalment. These programs need to be carefully assessed to ensure that the community gets the best value from them. I compliment the Auditor-General on his sequence of reports.

As has been said by Mrs Kronberg and the other contributor on this report today, the fact is that the series of conditions the government programs that promote healthy eating and physical activity seek to address is of growing significance in our community. As the Auditor-General points out, much of the burden of disease is due to chronic conditions. He points out correctly that those conditions have many and complex causes. They lead to poor health outcomes and early death in many cases. The risks around smoking are well understood, and Victorian agencies, led by VicHealth, have been very effective in combating the health risks of smoking over a long period. We still have much more work to do, but increasingly the focus of our lead agencies has turned to overweight and obesity issues and lack of physical activity.

A number of important conditions are directly linked to increased weight and the metabolic syndrome associated with early diabetic issues, in particular stroke, cancer, diabetes and heart disease. These ailments are directly and closely associated with being overweight and physical activity. The Auditor-General reported that:

> … about one-third of the chronic disease burden has been attributed to changes in largely avoidable risk factors such as tobacco smoking, excessive alcohol consumption, physical inactivity, unhealthy eating and excess weight.

He went on to say that the number of Victorians living with diabetes increased by 77 per cent between 2001 and 2006. I make the point that Victoria is not unique. Many areas of the Western world face these challenges, and we need to respond to them well. The Auditor-General found that the increase in the number of Victorians living with diabetes was:

> … driven by the additional 68 000 people diagnosed with type 2 diabetes. Hospital admissions for diabetes complications have more than doubled over the same period. The direct, annual health costs of diabetes in Victoria rose from $361 million in 2001 to $637 million in 2006. On current trends, costs will exceed $1 billion by 2015.

This is a significant wake-up call for the community. The Auditor-General has put these figures into an important and useful context. He points to issues around government coordination of programs, to the need for better planning and coordination and to the need for a stronger evidence base to guide the state and refine its investment.

As I said, this is an important report. I want to pick out one example of an important program that I do not think has been implemented to the extent it should have been. The Victorian Health Promotion Foundation, VicHealth, did the work in developing the walking school bus model. This is a very important model for physical activity for young children and the program was to be done cooperatively with local councils. It was funded by VicHealth, and VicHealth is a lead agency that should be experimenting and finding through evidence what is effective in dealing with these issues. I think it is disappointing that the walking school bus model has not been picked up broadly enough across the community.

Part of that is because the Department of Human Services has not come in to backfill that funding. The lead agency has done its work, and it is now the role of the Department of Human Services to ensure that funding is there for the councils to do their work. They should be able to do it. This is an example of a lack of coordination, in my view, that needs to be improved. These issues are important. They need coordination, otherwise we will not manage the burden of disease in the way we should.

Environment and Natural Resources Committee: production and/or use of biofuels in Victoria

Mr VOGELS (Western Victoria) — I would like to make a few comments on the Victorian government's response to the parliamentary Environment and Natural Resources Committee's inquiry into the production and/or use of biofuels in Victoria. This ENRC inquiry commenced in July 2006; we heard Johan Scheffer talk about that earlier. The committee's report was formally lodged in the Parliament on 19 December 2006. The report provides an assessment of the biofuels industry, including manufacture, current production, the use of biofuels for transport and the barriers to and incentives for increased use of biofuels. I think it is an excellent report. I do not have a problem with it; however, I am very pleased that the Victorian government has not

accepted the report in full but wants to do some more investigation before we head down the biofuel track.

As I said, I agree with the sentiment expressed by the Bracks government. We have seen the cost of fertilisers in Victoria nearly double over the past year or so because of European countries and the USA especially going down the biofuel track. They are buying up the world's fertilisers. The cost to Victorian agriculture at this stage is about a 50 per cent increase in the price of fertilisers for farmers who are producing crops for human consumption. We also see that more and more marginal agricultural land is being cultivated to grow corn, canola et cetera for biofuels across the world.

We are also talking about genetically modified (GM) crops at the moment. It is an issue as to whether we should or should not have them. Many European countries have apparently lifted their ban on GM canola because they want to use the crop for biofuels — so it is not an issue for biofuels whereas it may be an issue for human consumption. If you are growing GM oil crops such as GM cotton, GM canola, corn or beetroot, which can also be used for biofuels, cross-pollination happens, no matter whether that crop is grown for human consumption or for biofuels. The machinery or the wind or whatever carries the GM crop's pollinated spores across to other fields make no distinction. It is an issue that we need to be very careful about.

We have seen what happens once you start subsidising an industry. We have seen it in western Victoria with blue gums, where all of a sudden because of government subsidies and tax breaks and so on the blue gum industry has become a huge concern for farmers who actually farm to produce food for human consumption. They cannot compete against the multinationals, which are putting in hundreds of thousands of hectares of blue gums for woodchips that will eventually be sent to Japan or China. The biofuel industry worries me in the sense that it will eventually threaten farmers who are farming to provide food for the world.

Yes, it is a good report. I am very supportive of the final recommendation, which states:

> That the Victorian government through the public transport division of the Department of Infrastructure conducts comprehensive research on costs and benefits associated with the use of biodiesel blends in public transport —

and for that matter in private cars as well. We need to make sure that this is not just a magic bullet that will sort out the world's fuel problems, because there will be huge costs to those farmers who are trying to grow food for human consumption.

Select Committee on Gaming Licensing: interim report

Mr GUY (Northern Metropolitan) — I would like to follow up on the debate which occurred later in the week on the tabling of the interim report of the Select Committee on Gaming Licensing. I would like to refer to a couple of paragraphs, and in particular to one by the chairman, Mr Rich-Phillips, who made some observations.

Mr Finn — He did a very good job.

Mr GUY — Indeed he did do a very good job, Mr Finn. I will refer to a couple of observations Mr Rich-Phillips made in his opening foreword to the report. They related to the ongoing rhetoric of the government about being open, honest and accountable. Mr Rich-Phillips, in making the point that the government has sought to hinder the committee, was very right. It is very true indeed. Earlier this week Mr Viney came into the chamber thrashing about like a harpooned whale, accusing the committee of doing everything including having meetings on the grassy knoll and hiding unidentified flying objects in the basement of the building. Mr Viney accused the select committee of being part of every conspiracy theory it was possible to espouse in the 20th century.

That was just the start, because Mr Viney and other Labor Party members of the committee have sought at every opportunity to wreck the committee: to wreck it via the votes to establish the committee — the Parliament's right to establish the committee; to wreck it via debate; to wreck it in the committee stage; and to wreck it through pointless amendments, wasting time and so on. It is the classic Labor attitude — if you cannot win something, you wreck it.

I want to refer to the comments of Mr Rich-Phillips about the rhetoric of the government being open, honest and accountable. I will make some brief remarks, but I remind government members of Labor's policy document entitled *Integrity in Public Life*. That is important when talking about this committee, the conduct of Labor Party members on this committee and what has been reported by the chairman and the majority of the committee to be the fact about the behaviour of Labor Party members on the committee and the Labor government's attitude to this committee.

One of Labor's promises in *Integrity in Public Life* is that it would restore the independence of the public service. It also promised to 'end the use of commercial in confidence in freedom of information'; 'to introduce a code of conduct for MPs' — you only have to see the

behaviour of some of the Labor members in this chamber, particularly in this debate, to understand the need for that; 'to restore the credibility of the Victorian Parliament, so that ministers must answer all questions' — all of us, including Mr Finn and others, know about the behaviour of ministers such as Minister Madden in particular in terms of answering all questions; and lastly, 'to reduce highly priced consultancies' — in the last seven to eight years we have seen the government making millionaires of its mates, particularly Adam Kilgour and CPR Communications and Public Relations Pty Ltd.

Coming back to the report, as I said there is a myth being espoused that featured in the debate the other day: that some members of this committee somehow have an alliance against the Labor Party members on it. Anyone who looks at the facts and reads the report, including pages 61, 64 and 65, will see that in a number of divisions the Liberal Party voted by itself, which shows that there is no alliance between The Nationals, the Greens and the Liberal Party. In fact most divisions have been the non-government parties voting together. That is because we believe the Parliament has a right to investigate the matters it is investigating. The Labor Party thinks it does not, but it does. It is the classic thuggery of this government to believe the Parliament has no right to investigate matters involving the government of the day.

As has been shown, the government did not reply to certain summonses for 14 weeks. The government has clearly bullied public servants not to appear before the committee. The government, as I said, believes Parliament does not have a right to inquire into what it does. The Parliament has that right. The people of Victoria have said that the Parliament and this chamber have a right to inquire.

I conclude simply by saying: Labor promised to be an open, honest and accountable government, but the reality is that the government does not believe in accountability. It voted against the committee being established; it voted to hinder it at every opportunity, as these documents show.

Mr Finn interjected.

Mr GUY — They have absolutely no integrity, Mr Finn, because at the end of the day members opposite have used intemperate language to describe this committee, as the debate showed in the Legislative Assembly when it was discussing reporting back to this chamber. Government members bagged the committee at every chance. They accused members of the committee of being leakers. At the end of the day the simple conclusion is that one has to ask this government: what have you got to hide?

MAGISTRATES' COURT AND CORONERS ACTS AMENDMENT BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Magistrates' Court and Coroners Acts Amendment Bill 2007.

In my opinion, the Magistrates' Court and Coroners Acts Amendment Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The proposed bill contains miscellaneous amendments to the Magistrates' Court Act 1989 and amendments to the Magistrates' Court (Family Violence) Act 2004 and the Coroners Act 1985.

The bill contains the following miscellaneous amendments to the Magistrates' Court Act 1989:

Amendments to enable acting magistrates to be assigned to the Drug Court division of the Magistrates' Court by creating a definition of 'magistrate' as including an acting magistrate. As a consequence of this amendment the bill also contains certain necessary and appropriate consequential amendments. These include the omission of the term 'acting magistrate' where that term will become redundant and the insertion of the term 'judicial registrar' where appropriate.

Amendments to clarify that both magistrates who have been assigned to the Drug Court division as well as magistrates who have not been assigned to that division can make referrals from the criminal list to the Drug Court division of the court.

Amendments to make provision for registrars of the Magistrates' Court to have the power to adjourn criminal proceedings and, where applicable, extend bail on the mention date and subsequent dates.

Amendments to add officers from the Office of Police Integrity, the Department of Employment and Workplace Relations, the Department of Defence, the Australian Commission for Law Enforcement Integrity, the Australian Communications and Media Authority, the Department of Agriculture, Fisheries and Forestry, the Therapeutic Goods Administration, the National Offshore Petroleum Safety Authority and the Australian Crime Commission to the list of persons who can

witness statements to be tendered in committal proceedings.

The bill includes an amendment to the Magistrates' Court (Family Violence) Act 2004 to extend the operation of the Family Violence Court intervention project, which operates in the Family Violence Court division of the Magistrates Court, until 30 October 2009. The project provides for family violence counselling for defendants to intervention order applications.

The bill includes amendments to the Coroners Act 1985 to re-establish a longstanding access to coroners' records scheme, pending a full legislative review of the act.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

Section 13(a) of the charter provides that every person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked.

The amendment to the Coroners Act 1985 engages section 13(a) of the charter, in that it provides that before the completion of an investigation or inquest into a death or an investigation or inquest into a fire, a coroner may direct that the coroner's file relating to that investigation or inquest, or any part of that file, is to be made available to any person or class of persons as the coroner directs. It also provides that after the completion of an investigation or inquest into a death or an investigation or inquest into a fire, the coroner's record and the coroner's file relating to that investigation or inquest is to be open to public access unless a coroner otherwise orders. It is likely that the files and records which will be made accessible will contain information of a personal nature regarding any number of individuals and may be capable of identifying such persons. The amendment constitutes a prima facie limitation on the right to privacy.

2. Consideration of reasonable limitations — section 7(2)

Section 7(2) of the charter provides that a human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors including: the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relationship between the limitation and its purpose and any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

(a) The nature of the right being limited

The right to privacy and reputation encompasses privacy of information about people and the beliefs or opinions that are held about a person. Under the charter, it may be subject to reasonable limitations that are demonstrably justified.

(b) The importance of the purpose of the limitation

The purpose of the limitation is to ensure that the quasi-judicial operation of the State Coroner's Office continues to operate on an open and transparent basis and within the principles of open justice. The limitation provides for the discretion of the coroner to be exercised, on a case-by-case basis, as an independent quasi-judicial officer in determining whether records and files should be released as balanced against the interests of privacy.

(c) The nature and extent of the limitation

The limitation provides that the coroner is to decide if and when to release documents or files following an inquest. These clauses of the bill will, prima facie, intrude upon a person's privacy and reputation. The coroner is an independent quasi-judicial officer who will consider whether to disclose information on a case-by-case basis, taking into consideration the principles of open justice.

(d) The relationship between the limitation and its purpose

The limitation is designed to ensure that the quasi-judicial operation of the State Coroner's Office remains as that of balancing the right to privacy against the right to freedom of expression, whereby the charter provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds. The limitation is designed to ensure that information obtained by the coroner, which may have implications for the community, can be released to the community.

(e) Any less restrictive means reasonably available to achieve its purpose

No other means are considered reasonably available to achieve the purpose of the restrictions placed on a person's right to privacy or reputation.

(f) Any other relevant factors

The coronial system serves the community by providing independent and open investigations into sudden, traumatic or unexplained deaths. It is expected by the community that investigations will be sensitive to the needs of grieving families and others who are affected by sudden death. They also expect the work of the coroner to be open and transparent.

In order to ensure that the Office of the State Coroner can meet the expectations of the community concerning an open and transparent process, the amendments to the Coroners Act 1985 are demonstrably justified.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because the engagement of section 13(a) can be demonstrably justified.

JUSTIN MADDEN, MP
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Education).

Mr LENDERS (Minister for Education) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill contains six distinct sets of amendments regarding operational components of the Magistrates Court and one amendment to the coronial jurisdiction. The bill promotes efficiency across the Magistrates Court system, modernisation of the courts' processes and promotes the need for flexibilities, where appropriate. It also allows for the continuation of counselling orders in Victoria's Family Violence Court division and provides clarity regarding access to records in the coronial system. I will address each of these in turn.

Magistrates Court amendments

The Drug Court

The Victorian Drug Court division, established in 2002, was the first specialist division of the Magistrates Court to be trialled in Victoria. It combines the powers of our criminal justice system with a therapeutic focus on treating drug dependency. This approach allows the Drug Court to tackle the underlying issues contributing to criminal behaviour and to deliver better outcomes for individuals, families and the community.

In fact, evaluations of the Drug Court have demonstrated positive outcomes including less recidivism, reduced and less harmful drug use and increased employment rates amongst the participants.

The bill contributes in two ways to the efficient functioning of the Victorian Drug Court. Firstly, it enables acting magistrates to be assigned to this division. Given the unique and sensitive work undertaken by Drug Court magistrates it is preferable that those most qualified for this task be able to do so, regardless of whether the individual is a magistrate or an acting magistrate. The bill allows for this to occur.

The bill provides for the assignment of acting magistrates by creating a definition of 'magistrate' as including an acting magistrate. As a consequence of the new definition, the bill also makes a small number of technical consequential amendments. These include changes to the use of the terms 'acting magistrate' and 'judicial registrar' in certain provisions for the sake of clarification and to rectify anomalies.

Secondly, the bill enables all magistrates sitting at the Dandenong Magistrates Court to be able to refer appropriate cases to its Drug Court division, regardless of whether the magistrate is an assigned Drug Court magistrate or not. This, again, improves efficiencies for the management of these cases and provides for a more streamlined approach for referrals. This has benefits to both the court and defendants.

The Magistrates Court

I now turn to two amendments that affect the broader Magistrates Court.

Firstly, the bill allows registrars of the Magistrates Court to have the power to adjourn criminal proceedings and, where appropriate, extend bail on the mention date and subsequent dates. This clarifies and confirms a longstanding practice of the Magistrates Court jurisdiction and saves using valuable sitting time on uncontentious matters. The bill provides for a more efficient court system which is both flexible and considerate of the needs of all participants in the criminal justice system, including magistrates, police prosecutors, legal representatives and defendants.

Secondly, the bill will enable nine additional commonwealth and state agencies to be able to witness statements that can be tendered in committal proceedings. Those agencies are:

the Office of Police Integrity;

the Department of Employment and Workplace Relations;

the Department of Defence;

the Australian Commission for Law Enforcement Integrity;

the Australian Communications and Media Authority;

the Department of Agriculture, Fisheries and Forestry;

the Therapeutic Goods Administration;

the National Offshore Petroleum Safety Authority;

the Australian Crime Commission.

Each of these new agencies is involved in criminal investigations requiring witness statements in the committal process. This bill will overcome some of the administrative delays experienced by these agencies in progressing their investigations as well as inconvenience experienced by their witnesses. The bill is consistent with the listing of other commonwealth and state agencies in the Magistrates' Court Act 1989 and provides for more efficiencies across the criminal justice system.

The family violence division

I now turn to an amendment which affects the Family Violence Court division. The bill amends the Magistrates' Court (Family Violence) Act 2004 to enable an extension of the sunset date for the availability of counselling orders to 30 October 2009.

The Family Violence Court division of the Magistrates Court can make orders that a defendant to an intervention order attend counselling. Counselling is provided through the Family Violence Court intervention project, which was established as a pilot to 30 October 2007. The act currently reflects this and provides for a repeal date of 30 October this year. The bill replaces the current repeal date with a new date of 30 October 2009.

The repeal provisions make it clear that the availability of the counselling orders is still a pilot program. An independent evaluation of this project is currently under way. Early indications show that the program is working well and the evaluation will be completed by the proposed new sunset date. A complete evaluation will enable a fully informed decision to be made about the future of the pilot.

The coronial jurisdiction

I now turn to the final amendment, which affects the coronial jurisdiction. The bill will provide clarity about the accessibility of coroner's records both before and after a case is finalised.

The government is committed to rewriting the Coroner's Act 1985. These reforms will require extensive consultation with the legal and medical professions, community groups and families.

Pending this broader endeavour, and given the unique and sensitive nature of this jurisdiction, it is important that the bill confirm the existing arrangements in relation to records held at the State Coroner's Office. This bill achieves this purpose and confirms current practices at this time.

The bill is consistent with the government's 2006 *Access to Justice* policy statement and my 2004 *Justice Statement* to ensure efficient process, streamlined operations and a modern and flexible justice system.

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 26 July.

WILLS AMENDMENT BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning) Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Wills Amendment Bill 2007 (the bill).

In my opinion, the bill, as introduced in the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends section 26 of the Wills Act 1997 to make further provision for matters of which the court must be satisfied before granting leave to apply for an order authorising a statutory will to be made or revoked on behalf of a person who does not have testamentary capacity.

The bill provides that the court must be satisfied that the proposed will or revocation reflects what the intentions of the person on whose behalf the will is to be made or revoked would be likely to be, or what the intentions of the person might reasonably be expected to be, if he or she had testamentary capacity.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The bill does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not raise any human rights issues, it does not limit any human rights and, therefore, it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with, and does not limit, the human rights protected by the charter.

JUSTIN MADDEN, MLC

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Education).

Mr LENDERS (Minister for Education) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Wills Act 1997 sets out the law relating to wills in Victoria.

Since 1997, the act has provided for a statutory will-making scheme. The scheme allows the Supreme Court to authorise the making of a will on behalf of a person who does not have testamentary capacity, while that person is still alive. The act also allows the court to revoke such a will.

The scheme is intended to benefit someone who may have once had capacity to make a will but who has lost that capacity, as well as someone who has never had capacity.

The act currently requires a person applying for authorisation of a statutory will to first obtain leave of the court. Before granting leave, the court must be satisfied that the proposed will accurately reflects the likely intentions of the person on whose behalf it will be made, if that person had testamentary capacity.

Under these provisions, it is very difficult for an application to be brought on behalf of a person who has never had testamentary capacity. This is because their likely intentions cannot be established with the required degree of precision and exactitude. For example, it may be impossible to know the wishes of someone who has a severe intellectual disability or who suffers a brain injury as a young child.

The effect of not being able to make a statutory will is that the person's estate will be distributed according to the rules of intestacy, which essentially means to their living next of kin in accordance with a fixed legal formula.

However, there are cases where the distribution of an estate under the intestacy rules would be unfair or inappropriate. Consider, for example, the situation of a child abandoned by her parents or a family where one parent has not had contact with, or care of, a child since early childhood.

As such, the current provisions of the act are not sufficiently wide to cover all of the cases that they should.

The purpose of the bill before the house today is therefore to amend the act to clarify the basis on which the court may consider applications for a statutory will to be made or revoked on behalf of a person who has never had testamentary capacity.

The bill provides that, before granting leave for such an application, the court must be satisfied that the proposed will or revocation reflects what the intentions of the person on whose behalf the will is to be made or revoked would be likely to be, or what the intentions might reasonably be expected to be, if the person had testamentary capacity.

It is noted that the act already provides that the court may require the applicant for a statutory will to provide an extensive list of information to support their application. This includes any evidence available of:

the wishes of the person;

the circumstances of any person for whom provision might reasonably be expected to be made under the will;

any persons who might be able to claim on intestacy;

any gift for a charitable or other purpose that the person might reasonably be expected to give or make.

This is a small but important bill. It will ensure that appropriate cases are considered by the court and, as always intended, that people who have never had testamentary capacity benefit from the statutory will-making scheme. More broadly, the bill will enhance the rights and dignity of people with disabilities by enabling their property to be distributed appropriately by having regard to their current situation.

The bill has the support of the court and both legal and non-legal probate service providers. I am confident that it will be welcomed by those families and carers of people with disabilities.

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 26 July.

ACCIDENT COMPENSATION AMENDMENT BILL

Statement of compatibility

Mr LENDERS (Minister for Education) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Accident Compensation Amendment Bill 2007.

In my opinion, the Accident Compensation Amendment Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The primary objective of the bill is to continue a soundly administered and fully funded workers compensation scheme in line with the government's policy.

In particular, refinements are being made to the Accident Compensation Act 1985 to:

ensure the VWA can enforce compliance with all obligations by scheme swappers;

remove any uncertainty about provisions relating to financial (bank) guarantees; and

remove a discretion that existing self-insurers have in relation to tail claims and mandate that they hand back the management of such claims to the VWA before exiting to Comcare.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The bill does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not raise any human rights issues, it does not limit any human right and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise human rights issues.

JOHN LENDERS, MP
Minister for Education

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Education).

Mr LENDERS (Minister for Education) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill before the house today seeks to reinforce and give proper effect to legislative provisions first adopted in 2005.

In early 2005, the Bracks Labor government moved to protect Victorian workers, employers and the WorkCover scheme from the adverse impacts of the commonwealth government's incursion into workers compensation through the opening up of self-insurance arrangements in the Comcare scheme.

In doing so, the government sought to ensure that the financial burden of managing the 'tail' claims of those large

employers exiting the WorkCover scheme did not fall on those employers, many of them small businesses, left behind.

At the same time, the government enacted laws to protect the injured workers of those large employers exiting the Victorian scheme for Comcare to ensure that those proposing to leave the scheme did not drop the ball on assisting their workers return to safe, suitable and durable employment.

The legislation introduced in 2005 was sound and effective in protecting the interests of Victorian workers and employers, and the finances of the Victorian WorkCover scheme.

However, it has become apparent in recent times that there are a number of issues in the 2005 provisions which, if not addressed, could result in increasing non-compliance with existing requirements and, as a consequence, potentially lead to significant unfunded claims liabilities for the WorkCover scheme.

To this end, the bill before the house today refines the Accident Compensation Act 1985 to:

> ensure that the Victorian WorkCover Authority can enforce compliance with all obligations by employers swapping from the Victorian scheme to the Comcare scheme;
>
> remove any uncertainty about provisions relating to the necessary financial guarantees that must be provided by those companies; and
>
> remove a discretion that existing self-insurers have in relation to tail claims, and mandate that they hand back the management of such claims to the Victorian WorkCover Authority, should they self-insure with Comcare.

This bill is about fiscal and social responsibility. It is about certainty for Victorian employers and workers and it is in the best interests of our state.

At the time the 2005 provisions were introduced, the Victorian WorkCover Authority's enforcement powers did not extend to penalising those large employers who swapped schemes in situations where they failed to meet their legislative obligations.

This created an inevitable incentive for those employers to not meet those obligations.

Similarly, the 2005 provisions required those employers exiting the Victorian scheme to provide financial guarantees with an authorised deposit-taking institution in respect of insolvency and claims deterioration, and the circumstances in which that guarantee could be recovered.

There have been some concerns raised about the clarity and enforceability of these obligations. It is therefore incumbent on the government to act in this area to ensure that those exiting the Victorian scheme do not do so to the detriment of other Victorian employers. This bill clarifies those obligations and puts in place penalties for non-compliance.

Finally, clarification is required around the tail-claim obligations of large employers exiting the Victorian scheme. At the time of the 2005 amendments, it was the intention to ensure that the existing claims of large employers at the time of transfer would remain within the Victorian system, so that appropriate safeguards for injured workers remained.

However, as the current legislation stands, there is nothing to prevent large companies exiting the Victorian scheme from retaining management of their tail claims, effectively preventing the WorkCover Authority from ensuring such claims are managed appropriately and in the interests of injured workers.

The amendments in the bill before the house seek to ensure that such a situation does not eventuate.

It is imperative that these fundamental changes be made to protect the nation's best-performing statutory workers compensation scheme and the workers and employers for which it was established.

This is a simple and straightforward matter of protecting Victorian interests — the interests of our workers, the interests of our employers and the interests of our WorkCover scheme.

I commend this bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 26 July.

CRIMES (DECRIMINALISATION OF ABORTION) BILL

Statement of compatibility

Ms BROAD (Northern Victoria) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act (the charter), I make this statement of compatibility with respect to the Crimes (Decriminalisation of Abortion) Bill 2007.

In my opinion, the Crimes (Decriminalisation of Abortion) Bill 2007, as introduced in the Legislative Council, is compatible with the human rights protected by the charter.

I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Crimes Act 1958 to abolish the offences of unlawful abortion by the repeal of two relevant provisions in the Crimes Act 1958, to abolish any common law offences of unlawful abortion and to ensure the provision of safe and competent health services to women having an abortion.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

This bill does not raise any human rights issues.

The charter protects and promotes the human rights of 'persons', or 'human beings', regarded under Victorian law as existing from the time a child is born alive and exists separate from, and independent, of their mother. The charter does not disturb this well-established legal position and expressly provides that the provisions of the charter do not affect the law applicable to unlawful abortion the subject of the bill (section 48 of the charter).

2. Consideration of reasonable limitations — section 7(2)

The bill does not limit any human right and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with, and does not limit, the human rights protected by the charter.

Candy Broad, MP

Second reading

Ms BROAD (Northern Victoria) — I move:

That the bill be now read a second time.

The purpose of this bill is to ensure the provision of safe and competent health services to women having an abortion and bring legislation regarding abortion into line with community expectations by abolishing the offences of unlawful abortion in the Crimes Act 1958 and in the common law.

It is estimated that one-third of all Australian women will undergo a therapeutic termination of pregnancy, otherwise known as abortion, at some stage during their lives. These women are our friends, our sisters, our partners, our children. We have a responsibility to ensure the provision of safe, legal and accessible medical services to them.

Abortion is currently included in sections 65 and 66 of the Victorian Crimes Act. These sections provide that the criminal offence of 'unlawful abortion' can be committed by people within one of two broad categories. The first category comprises pregnant women, who self-induce their own abortion, or who might be regarded as a party to an unlawful abortion performed by another person. The second category comprises providers of abortion services. That is those who perform therapeutic termination procedures, or assist in the performance of those procedures, by obtaining or supplying drugs or instruments.

The actions of people engaged in activities in the conduct of pregnancy termination services, other than the actual performance of surgical procedures or the ordering or administration of drugs, may come within the statutory provisions or be regarded as aiding and abetting the commission of an unlawful abortion. This could include a doctor who refers a pregnant patient to a termination clinic, nurses or counsellors undertaking assessment or providing psychological support, and even administrative assistants performing routine administrative tasks.

It is conceivable then, that currently, the actions of all people involved in operating a termination service could attract criminal liability.

Safe, if not legal, abortion became a reality for women in Victoria in 1969 when Justice Menhenitt ruled in the Victorian Supreme Court that abortion was lawful if it was considered necessary to safeguard the physical and mental health of the pregnant woman and that the circumstances were not out of proportion to the danger to be averted. This was an important ruling for women and doctors at the time and was a major contributor to the end of so called 'backyard abortions'. It was appropriate at the time and reflected community attitudes.

While the Menhenitt ruling was an important development in the provision of safe abortions, the ongoing inclusion of abortion in the Crimes Act means that women seeking an abortion and the health professionals who assist them are open to the risk of prosecution. This situation presents a significant barrier to accessibility.

The decision to continue or terminate an unplanned and/or unwanted pregnancy is always difficult and the reasons women may choose to terminate a pregnancy vary. The British Medical Association identifies a number of reasons why women seek abortion at various stages of gestation and difficulty in accessing services is a key reason given.

Greater Melbourne is serviced by only a handful of private clinics and public hospitals. The scarcity of public services forces women into the private sector where costs are higher.

Rural women, in particular, are disadvantaged by the current legal status of abortion because it can result in hospitals and doctors not providing a full range of medical services to their communities, including reproductive health services, and including termination services.

In rural and regional areas of Victoria, such as in my electorate of Northern Victoria Region, the situation is critical with few private clinics and access to terminations in public hospitals limited or unavailable. Women in rural communities also face barriers such as low numbers of general practitioners, particularly those who bulk bill, long waiting lists and potential concerns

regarding confidentiality when needing to access abortion services. This situation discriminates against women financially and geographically.

As an example, research undertaken in the north-east of the state in September 2006, identified only two local services that provided termination of pregnancy and both of these were in fact over the border in NSW. The only other option for women in this area seeking an abortion is to travel to Melbourne and access a clinic there. This requires the women to leave their homes, families and jobs, and travel to Melbourne, undergo the termination, often stay overnight in the city and return home. Not only do they need to find the money for all of these additional expenses but the need to travel at short notice may compromise their confidentiality and limit their support base immediately before and after the termination.

The lack of access to abortion services for women in the Loddon Mallee region has also been acknowledged by the Human Rights and Equal Opportunity Commission *Bush Talks*.

Women in Northern Victoria Region are not alone in experiencing difficulties in access, as it is a problem common across the state.

The uncertain legal status creates an atmosphere whereby it is acceptable to harass women and doctors in ways that would not be tolerated in any other service, or for any other section of the community. As a result many doctors and hospitals and clinics are discouraged, if not outright stopped from providing termination services.

Doctors in Victoria have had their homes sprayed with graffiti, been followed when travelling to and from work, had their children threatened, and they and their staff are regularly picketed, yelled at, and abused. These forms of harassment make it very difficult to attract doctors and nurses to work in abortion services. If abortion were legal then these attacks could be countered more readily, or would not occur at all.

The current legal situation places doctors and their staff in an invidious position. It deters young doctors from training to provide abortions, and it provides ammunition for those in society who harass and abuse doctors involved with abortion. This further exacerbates the crisis in service provision as older doctors retire and younger doctors do not replace them.

President, I am not alone in the belief that abortion should be safe, legal and accessible. Independent studies show that the majority of Australians support access to termination of pregnancy. Indeed, the 2003 Australian survey of social attitudes found that 81 per cent of those surveyed believed a woman should have the right to decide whether or not to have a termination. In addition, a 2004 study published by the Australian Institute of Family Studies reported that 96 per cent of Australians did not consider abortion to be wrong. The Australian survey of social attitudes also found that among Anglicans, Presbyterians, Catholics, members of the Uniting Church, and members of the main non-Christian religions, support for a woman's right to choose was 72 to 86 per cent.

Now, almost 40 years since the Menhenitt ruling, it is time to modernise the legislation and bring it into line with current community attitudes.

The bill strikes a crucial balance between community concerns and the need to protect women and their doctors from prosecution.

The main features of the bill are that it:

1. repeals the two statutory provisions detailing the offence of 'unlawful abortion'. These are sections 65 and 66 of the Crimes Act 1958, which make it a criminal offence for a woman to unlawfully procure her own miscarriage and for any other person to procure or assist with the procuring of a miscarriage.

2. abolishes any common-law offences of unlawful abortion to remove any doubt about the existence of those criminal offences. This is necessary as a court would be reluctant to infer that 'unlawful abortion' offences had been removed without any clear reference to the common law.

3. creates a new criminal offence that applies to any person who carries out an abortion unless he or she is a medical practitioner, or performs the abortion under the direction or supervision of a medical practitioner.

The bill makes necessary amendments to section 10 of the Crimes Act 1958 that are consequential on the repeal of section 65 and expressly preserves the remaining provisions of the offence of child destruction so that the offence is unaltered.

Passing this bill would decriminalise the therapeutic termination of pregnancy. The offence of 'unlawful abortion' would cease to exist in the Crimes Act 1958.

Consequently, it would become possible for medical practitioners to provide quality pregnancy termination

services without the risk of criminal prosecution. The removal of legal ambiguity would also protect other health professionals and support staff involved with pregnancy termination. And, perhaps most significantly, women, who are best positioned to make informed decisions about their sexual and reproductive health, will no longer have to fear prosecution if they decide to terminate a pregnancy. Reform of this nature is long overdue.

The provision of pregnancy terminations would continue to be regulated by relevant health professional practice and standards guidelines, but the fear of prosecution for the offence of 'unlawful abortion' would end.

However, this bill is not everything for everyone. The right to abortion on demand does not exist now and this bill does not provide for abortion on demand.

Termination services may be refused where they would put a woman's health at risk and where service provision would require a departure from professional standards. This means that current practice will continue.

The bill would neither alter the number of abortions performed or the way in which services are regulated. What it would do is remove legal ambiguity and ensure that therapeutic termination services are safe and provided professionally.

This bill has been very carefully considered. It is a measured and responsible approach to updating the legislation. I note that during the recent debate in this house on the Infertility Treatment Amendment Bill, many members, on both sides of the debate, expressed concern about the need to protect women. This bill will do just that by removing the fear of prosecution for women and their doctors and by ensuring that a termination is dealt with as a health issue, and not as a crime.

I commend the bill to the house.

Debate adjourned for Mr P. DAVIS (Gippsland) on motion of Mr Rich-Phillips.

Debate adjourned until Thursday, 26 July.

SUPERANNUATION LEGISLATION AMENDMENT (CONTRIBUTION SPLITTING AND OTHER MATTERS) BILL

Statement of compatibility

Mr LENDERS (Minister for Education) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill 2007 (the bill).

In my opinion, the bill, as introduced to the Legislative Council is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill is intended to facilitate the splitting of superannuation contributions between members of the ESSPLAN scheme and their spouses. The ESSPLAN scheme is a superannuation scheme provided for persons employed in Victorian emergency services under the Emergency Services Superannuation Act 1986 (Vic). The bill will allow the Emergency Services Superannuation Fund to offer contribution splitting to their members. The purpose of permitting contribution splitting is to attract concessional tax benefits to the personal and employer contributions of members through the operation of the Superannuation Industry (Supervision) Act 1913 (cth) (the commonwealth act). Members of the ESSPLAN scheme enjoy various concessional tax benefits because the ESSPLAN scheme is a 'complying superannuation fund' under the commonwealth act.

The bill adopts the definition of 'spouse' provided for under section 10 of the commonwealth act which is restricted to married or heterosexual partners who live together on a genuine domestic basis as husband or wife. It does not extend to same-sex couples.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The human right protected by the charter that is relevant to the bill is the right to equal protection of the law without discrimination and to equal and effective protection against discrimination — section 8(3).

2. Consideration of reasonable limitations — section 7(2)

As this bill limits or restricts the relevant human right identified in 1 above, the following analysis is provided to demonstrate that the limitation is reasonable and can be demonstrably justified under section 7(2) of the charter.

(a) The nature of the right being limited

Section 8(3) of the charter operates to prohibit discrimination in law or in fact in any field regulated by public authorities and requires that the content of any legislation enacted by

Parliament not be directly or indirectly discriminatory. 'Discrimination' under the charter is defined to mean discrimination, within the meaning of the Equal Opportunity Act 1995 (Vic) on the basis of an attribute set out in section 6 of that act. Section 7 of the Equal Opportunity Act defines 'discrimination' as meaning direct or indirect discrimination on the basis of an attribute. The attributes referred to in section 6 include sexual orientation.

The bill defines 'spouse' as having 'the meaning given by section 10 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth'. Section 10 of the commonwealth act defines 'spouse' as including 'in relation to a person … another person who, although not legally married to the person, lives with the person on a genuine domestic basis as the husband or wife of the person'. The definition of 'spouse' in the commonwealth act distinguishes between married and de facto heterosexual couples and relationships involving same-sex partners who live with their partner on a genuine domestic basis. The bill would have the effect that only those in the former category may access superannuation contribution splitting arrangements. The incorporation of the definition of 'spouse' from the commonwealth act into the bill has the effect that the bill directly discriminates against members of the ESSPLAN scheme who have a same-sex partner who lives with the member on a genuine domestic basis on the basis of the attributes of sexual orientation.

(b) The importance of the purpose of the limitation

The purpose of the adoption by the bill of the definition of 'spouse' under the commonwealth act is to ensure consistency with the commonwealth act so that the splitting of superannuation benefits between a member and his or her 'spouse' (as defined) will attract the concessional tax benefits which flow from the commonwealth act.

This will ensure that as far as possible ESSPLAN may provide to its members the same benefits which might accrue by virtue of contribution splitting as are available to members of other complying superannuation funds while yet maintaining consistency with the commonwealth act.

(c) The nature and extent of the limitation

The bill does not enable contribution splitting between same-sex partners who live with their partner on a genuine domestic basis while facilitating contribution splitting between heterosexual married or de facto couples. Thus, the bill limits or interferes with the right to equal protection of the law without discrimination and to equal and effective protection against discrimination. However, by adopting the definition of 'spouse' in the commonwealth act in order to achieve consistency with the commonwealth act, the extent of the limitation with the relevant right goes so far and no more than is necessary exactly to achieve consistency.

(d) The relationship between the limitation and its purpose

It is my opinion that there is a rational and proportionate relationship between the limitation upon the relevant right and the purpose of that limitation. Given the objective of the bill, practical consistency could not here be achieved without the adoption of a definition of 'spouse' which reflected the terms in the commonwealth act. The bill might otherwise be misleading as to its effect and have direct adverse consequences for members with same-sex partners.

The commonwealth act does not recognise the splitting of superannuation contributions between same-sex partners. If the bill adopted a broad definition of 'spouse', which included same-sex partners, any splitting of superannuation contributions between them would not comply with the commonwealth act and would be ineffective for income tax purposes. Any member of the ESSPLAN scheme who split his or her superannuation contributions would be taxed in relation to the ineffective same-sex contribution split as though no split had occurred. That would mean that where the split occurred before the member had retired, the member would be taxed at the member's marginal income tax rate plus Medicare levy rather than at the concessional rates normally applying to superannuation. If this amount was not correctly included in the member's tax return, penalties would apply to any tax shortfall that occurred and a general interest charge would also be payable. In addition, the member would potentially need to find the funds to pay any penalties or interest from his or her own personal finances as the contribution provided to the same-sex partner would be unlikely to be released to the member to assist the payment. It might also be the case that there were adverse tax consequences for the receiving same-sex partner despite the splitting attracting no tax concessions for the member. If the receiving same-sex partner was to transfer the contribution to another fund the problems would be further complicated.

Furthermore, the fund under the ESSPLAN scheme might have PAYG withholding obligations to meet in relation to any same-sex contribution split which occurred (repayment of which might be sought from the member) and that the fund might be exposed to substantial penalties for releasing a superannuation contribution to a same-sex partner under the early release penalty provisions. The fund would need to disclose in its product disclosure statements that the same-sex contribution splitting would be ineffective for tax concessional purposes, and might lead to adverse tax consequences for the member. There would also be significantly increased complexity in the administration of the fund.

In these circumstances there is a rational connection between the nature and extent of the limitation upon the relevant right and the purpose for which that limitation is imposed. Without the imposition of the limitation the bill would be misleading in its effect and could lead to adverse consequences for members of the ESSPLAN scheme who have same-sex partners and for those partners.

(e) Any less restrictive means reasonably available to achieve its purpose

As the extent of the limitation with the relevant right goes so far and no more than is necessary exactly to achieve consistency with the commonwealth act, there is no less restrictive means reasonably available to achieve the purpose of the limitation.

(f) Any other relevant factors

An alternative would be for the state not to legislate to facilitate superannuation contribution splitting for any couples. Failing to legislate to provide for contribution splitting for heterosexual married or de facto couples would unnecessarily deprive those members of a potentially valuable benefit.

The proposed legislation defines 'spouse' by cross-referencing with the commonwealth act. Accordingly, should the commonwealth change its definition of 'spouse' to include same-sex couples, the Victorian legislation will automatically give effect to that broader definition.

Conclusion

The bill has the important objective of enabling members of the ESSPLAN scheme to have access to benefits enjoyed by superannuants in other complying funds. It has been prepared in such a manner as to ensure that it achieves a practical consistency with the commonwealth act. The adoption of a definition of 'spouse' that included same-sex partners might mislead those partners into the making of superannuation arrangements that would be ineffective for tax purposes and might result in an immediate tax liability.

I consider that the Superannuation Legislation Amendment (Contribution Splitting and Other Matters) Bill 2007 is compatible with the Charter of Human Rights and Responsibilities because, although it does limit, restrict or interfere with a human right, being the right to equal protection of the law without discrimination and to equal and effective protection against discrimination under section 8(3) of the charter, that limitation is reasonable and proportionate within the meaning of section 7(2) of the charter.

JOHN LENDERS, MP
Minister for Education

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Education).

Mr LENDERS (Minister for Education) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The primary purpose of this bill is to provide for superannuation contribution splitting in the ESSPLAN, which is the accumulation plan that sits within the Emergency Services Superannuation Scheme (ESSS). The bill also deals with a range of other miscellaneous superannuation issues.

The principal amendment in the bill provides for the splitting of personal and employer superannuation contributions between a member of the ESSPLAN and their spouse, at the request of the member. This is consistent with the commonwealth government's contribution splitting legislation, which took effect from 1 January 2006.

Members of ESSPLAN will be able to split personal and employer contributions with their spouse in respect of contributions made since 1 July 2006. Members may split contributions to an account held by their spouse, either within ESSPLAN or to a different fund within the superannuation system. This will enable spouses to share superannuation benefits and can improve the taxation position of some couples.

Most regrettably, the Victorian government is prevented from extending the opportunity of contribution splitting to same-sex couples. This is due to the relevant commonwealth legislation which, for the purposes of contribution splitting, narrowly restricts the definition of 'spouse' to heterosexual couples who live together on a genuine domestic basis.

This government strongly believes that limiting contribution splitting to heterosexual couples is unfair, discriminatory and typical of the outdated, mean-spirited policies adopted by the Howard government. We also are aware that it does not comply with the principles of Victoria's Charter of Human Rights and Responsibilities. The Victorian government has previously amended its legislation to include a definition of 'domestic couple' that does not discriminate on the basis of sexual orientation. Disappointingly, in respect of contribution splitting, Victoria's hands are tied by the commonwealth government and its discriminatory definition of 'spouse'.

The Victorian government is constrained by the commonwealth's discriminatory legislation for a number of reasons. Firstly, if the Victorian government introduces superannuation legislation that does not mirror the commonwealth's retirement incomes policy, the commonwealth has the ability to remove the exempt public sector superannuation status of the ESSS. This in turn would mean that the ESSS would automatically cease to be a complying superannuation fund resulting in dire taxation and financial consequences for both the ESSS fund and its members.

Furthermore, under existing commonwealth legislation, same-sex contribution splitting would be ineffective for taxation purposes and could result in an immediate income tax liability for the original spouse. This may have significant financial consequences for same-sex couples, particularly as tax concessions may be a key consideration in deciding to split a spouse's superannuation. Non-compliance with the relevant commonwealth legislation would also place a significant administrative burden on the fund and may become unworkable from the fund's perspective.

Therefore, while the bill does limit the right to equal protection of the law without discrimination, the limitation is deemed reasonable and proportionate within the meaning of section 7(2) of the charter, as members would be significantly worse off should legislation permitting same-sex contribution splitting be passed.

The Victorian government is extremely disappointed that the outdated discriminatory policies of the commonwealth prevent the Victorian government from extending this right to same-sex couples. However, I note a report in the *Australian* of Friday, 1 March 2007, that the Prime Minister has been urged by some in his party to give same-sex couples the same rights as heterosexuals in such areas as welfare, superannuation and tax. The Victorian government would certainly welcome such changes as they are long overdue, and I have written to the commonwealth government urging such a change. We look forward to the day these benefits can be made available to all Victorians regardless of their sexuality.

The bill also amends the Emergency Services Superannuation Act 1986 to provide for the establishment of a pool of three deputy board members, with these deputies being able to act for any of the six ministerially nominated ESSS board members. Under the existing arrangement, deputies are assigned to specific board members. A pool of deputies will provide greater flexibility and utilisation of appointees, and result in fewer deputies having to be appointed.

Furthermore, a number of other administrative or technical amendments are addressed in the bill.

These include a technical amendment regarding members who salary sacrifice to the various schemes comprising the ESSS.

During its previous term in office, the government legislated to enable members of the ESSS and state superannuation defined benefit funds to contribute via salary sacrifice. This was an important initiative that has resulted in significant financial benefits for many members. Legislation to permit employees to contribute to the SSF via salary sacrifice came into effect from 8 June 2004 and from 1 December 2005 for ESSS members.

This amendment makes no change to the current method of calculating benefits; it merely inserts a note to clarify the interpretation of the existing legislation that for the purpose of calculating benefits entitlements the member contributions are taken to be the member contributions that would have been payable if no election for salary sacrifice had been made.

The bill also amends some existing provisions regarding payment of death benefits.

The amendments will clarify the existing powers of the ESSS board in relation to the payment of death benefits, which will provide for fairer outcomes, expedite payments and reduce the administration burden on the ESSS.

The amendments will also provide for payment to a member's estate or such third parties as the board considers appropriate in circumstances where there is no dependant or nominee, and no executor or administrator has been appointed.

Further, the board will have the discretion to pay a portion of the death benefit to the dependant commensurate with the level of dependency, and to pay the balance to the member's estate.

Other amendments in the bill include:

ensuring that former state employees retirement benefit scheme members maintain their right to convert 50 per cent of their lump sum to a pension when they become an exempt officer;

giving members a wider choice of superannuation products into which they can transfer existing entitlements; and

removing limits on the period during which members can contribute while on leave without pay (in line with commonwealth legislative changes).

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 26 July.

BUILDING AMENDMENT (PLUMBING) BILL

Second reading

Debate resumed from 20 June; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr GUY (Northern Metropolitan) — I am pleased to inform the house that the Liberal Party intends to support the Building Amendment (Plumbing) Bill 2007, which will no doubt please the Acting President and members of the chamber. We do so mainly because it makes a number of changes which are quite acceptable to the industry and acceptable to people we have spoken to throughout our electorates and industry groups across the state. They believe that two moves should receive broad support. They are, firstly, enabling the regulations made under part 12A of the act to incorporate the Plumbing Code of Australia, and secondly, enabling registered plumbers to carry out specialised plumbing work on behalf of licensed plumbers. The Liberal Party has some minor concerns, which I will raise and talk about with great enthusiasm, but as I said before, the Liberal Party is generally supportive of the bill.

As members would know, there are around 30 000 plumbing businesses in Australia. It is a very large industry, with plumbers in every town and every suburb. As my colleague Mr Finn said to me, 'Plumbers are everywhere'. It is a very broad career and one that is vital to our building industry. No doubt all of us in this chamber have family who are involved in trade industries, and it is exceptionally important to our economy that these industries continue to thrive. The plumbing industry is worth over 300 000 jobs in Victoria alone, and more than 250 000 compliance certificates are issued each year by the industry. The plumbing industry is not just about unblocking toilets or fitting pipes anymore. It has evolved and is now a highly specialised industry.

It involves building and repairing of water supply to all kinds of commercial, industrial and residential buildings; building and repairing sewerage to all types of buildings; building and repairing water supply areas on buildings, such as metal roofs, gutters, downpipes, roof flashings; the installation of soil and waste disposal systems; the building and repairing of water supply to mechanical service equipment — boilers, for example; and the air conditioning and ventilation of all buildings. Plumbing also involves the installation of hot water services. No doubt every one of us has one of those, unless you want to take a cold shower on a 2-degree Melbourne morning. There is also the installation of

fire protection services and oil, spirit and air lines to buildings, factories, hospitals, refineries and laboratories.

There is a whole range of duties that the plumbing industry carries out in the building industry across the state. As I said, it is certainly more specialised than drains and pipes. It is a credit to the industry that there are no loons in the industry anymore. It is certainly one where shoddy workmanship does not exist. I think we would all agree that the vast majority of plumbers across the state do a tremendous job and hold up the credibility of the industry very well.

Under this legislation, the Building Act will make reference to the Plumbing Code of Australia in a similar way that it currently refers to the Building Code of Australia. Updates to the building code will automatically be picked up by the plumbing code, so they will automatically apply to plumbers. We agree with the government that that is very important. It is a provision that is supported by all the members who have been consulted, by all the industry groups we have consulted and by a lot of upper and lower house MPs who have spoken to plumbers in their electorates. It is a provision that will streamline the system and make changes to the industry a lot quicker and certainly a lot easier.

The bill will also enable registered plumbers to carry out specialised plumbing work on behalf of a licensed plumber. For the house's information, a licensed plumber and a registered plumber are very different. A licensed plumber has to have further advanced skills and qualifications and go through a fair bit more education than a registered plumber. They issue compliance certificates for work completed, and they are fully insured. The insurance aspect gives the consumer broad protection when dealing with work done by licensed plumbers. A registered plumber on the other hand is a plumber who has not gone through the further training and study to be fully licensed. They may be an apprentice, for example. They cannot undertake specialised plumbing work at present.

However, under this legislation a registered plumber will be able to undertake specialised work when under the supervision of a licensed plumber. It will certainly provide a bit more flexibility. This provision has a lot of support from the industry. There is a shortage of registered and licensed plumbers across Victoria. The changes here will assist in dealing with that shortage. The Liberal Party is supportive of any means to help with that. I believe it will also help get new people into the industry. It will give them direct experience — under supervision of course — with different lines of work in plumbing and will provide people with a fair bit more experience throughout their apprenticeship.

The bill will also legislate for product standards to apply to plumbing work. When conducting all their work plumbers will be required to use products that have Australian standards approval. As I said, Australian standard certified products will be legislated for. It might slightly add to some elements of the cost, but I think all Victorians would appreciate the knowledge that the parts being installed in their house when a plumber has come to do some work meet certified standards and are up to scratch. Fines may apply to those who do not abide by the law. We are certainly supportive of Australian standards being used throughout the industry in Victoria.

Another purpose of the bill, as listed in clause 1, is to provide for certain restrictions and obligations relating to plumbers. Although I am intrigued, as it appears somewhat vague and unclear — —

Mr Finn — That's unusual!

Mr GUY — It is unusual, Mr Finn. A five-day time limit is being imposed for the issue of a compliance certificate by a building practitioner to a building owner. This clause talks about the issuing of infringement notices and inspections of plumbing works on properties by compliance auditors, and it specifically mentions the hours of 8.00 a.m. to 6.00 p.m. This is one area of the bill where we have some concerns, which I will very quickly talk about.

When a certificate is issued there is no doubting that a full compliance certificate must be presented to the premises owner. Under no circumstance should this not occur. All works should be certified, and all works should certainly be done properly. We do not disagree with any of that, but I ask whether legislating for a five-day period is absolutely necessary. I want to talk a bit more about this five-day clause. I know a few building inspector practitioners. They are not slack; in fact they are very hardworking people. They have a lot of work to do, and they have a lot on their plates at the moment. To add such a limit could be exceptionally onerous and a bit inflexible.

I am not sure whether the government has considered the inflexibility of the time line and how it may impact upon people who are running a small business. Five days is not a long time, which I am sure is known by all people in this house who have done any work in the past as a tradesperson — and I have, although not to the extent that others have. Jobs for tradespeople can be across the city, and in country areas they can be many

kilometres apart, from town to town. To get from one side of the city or from another town puts a lot of pressure on the building inspectors and on the plumbers, who have to be there as well.

It is easy to draft legislation. It is easy to claim that these things have to be done or fines will apply, but I think we have to wonder whether it is practically fair. The Liberal Party fears that this part of the bill is fairly rigid and may add to the work burden for many small businesses. Unfortunately the Labor Party not seeming to understand the nature of small businesses is a recurring theme.

Mr Finn — They just don't care.

Mr GUY — They just do not care, as Mr Finn says. They do not seem to understand that small business is not a case of sitting back and doing very little. It is very hard, and time is certainly a very precious thing to all small businesses. For tradespeople and people in businesses who are spending a lot of time on the road, particularly if they are in country Victoria and going from town to town, having to spend even more time on the road to get from one area to another just to issue the certificate within the legislated time or face a fine could certainly be a bit of a negative to come out of the bill.

We are unsure about whether the 8.00 a.m. to 6.00 p.m. inspection times really need to be specified via legislation. The objective is obviously to be flexible if a person can give consent for a compliance auditor to enter and conduct an inspection. I would just point out for the house's information that we need to look at this from a plumber's point of view. Most are working — certainly the ones I know in my family — from 7.00 a.m. or earlier. They work very long days. They start very early, they have a lot to do, and they are very hardworking.

The auditor may instruct a plumber to attend at any time. The plumber would have no choice but to drop everything and to attend when the auditor said so, which I would think would not be welcome from their point of view. The government should have probably considered a little more the thoughts and the activities of a plumber and what they would have to do to attend at a time instructed by the auditors, and also the views of the home buyer.

No appointment with a plumber will be cheap. Plumbers are busy, they are in high demand, and to get one out will not be cheap. An after-hours appointment, I would have thought, would be even more expensive than one during working hours. The after-hour appointment time may not be up to the home owner, it may be up to the auditor, so the plumber and the home owner may be faced with the fact that when the inspector wants to be there, that is just going to be the case. We have some concerns there.

An interesting point noted by my colleague in the other place Mr Clark when we were discussing this bill is that there is no distinction in the bill between a working and a non-working day, and in fact no distinction between a public holiday and a weekend. It appears slightly sloppy in that sense.

Mr Finn — The Australian Council of Trade Unions will be running a campaign on that!

Mr GUY — It will indeed, Mr Finn. A compliance auditor may turn up at 9.30 a.m. on Good Friday if he or she feels like it, and the plumber would just have to be there as well. I note that outside the hours of 8.00 a.m. to 6.00 p.m. consent is needed from the property owner. That will be is a help, but it will certainly not resolve the situation.

I will make some further brief comments. To maintain confidence in any industry inspections need to be a regular occurrence. The government has decided with this legislation that 5 per cent of all plumbing work must be audited or inspected by the Plumbing Industry Commission, which is a figure it thinks will maintain confidence in the industry throughout Victoria.

There need to be some guarantees here. Whether or not the sample size they have chosen is a correct amount and whether or not it will produce an accurate outcome is open for interpretation. But we need to be confident that these inspections are taking place, that they are absolutely random and that there really is an incentive to conduct work according to legislated standards. I trust that the commission can provide these guarantees and can ensure Victorians, who are certainly interested, that the standard of work being conducted and audited is accurate and correct. I trust that the commission can provide those guarantees.

The standard in the plumbing industry across Victoria is an issue to many of us, as I have said. The quality of work of all trades is an issue for all of us. Last year 20 000 homes were built in Victoria and many thousands more, which all of us would know, were renovated.

Mr Finn interjected.

Mr GUY — Indeed; as Mr Finn said, a number of those homes were McMansions in the outer suburbs. They would have had to have a lot of plumbing work, given that they are very large and many are made up of

a number of storeys and a number of squares — that is, squares as in the old term; I was born in 1974 and that is what I am still accustomed to. They require a lot of work.

As members of the house would know, for a number of years Victoria, like other states, has benefited from the strength of the national economy and through many of the federal government's tax cuts, which have been very welcome contrasts to every state government around the country. What Victorians have had from those tax cuts and from the strength of the national economy is the chance to invest in or buy a new home. Whether or not it is a McMansion or an existing home, it is up to Victorians to choose where they spend their money and how they want to spend their money. That is our point of view.

Under the good economic management of the federal government Victorians have had that money and have built, as I have said, more than 20 000 homes on the outskirts of Melbourne. The state government is doing its best to ruin this growth through its locking up of land to jack up house prices, by creating an arbitrary urban growth boundary to jack up house prices, by imposing stringent new energy ratings to add to the cost of a new home; by introducing developer taxes to add thousands to the cost of a new home and by allowing Melbourne Water to increase drainage charges by 50 per cent to jack up house prices. The list goes on and on, and so does the state government's rolled-gold guilt when it comes to housing affordability.

While talking about this plumbing bill and plumbing costs the state government should look at itself and not just at others in relation to the regulation costs of homes — because it is the biggest culprit. While this bill will certainly help the plumbing industry, I would urge the state government, when talking about the good work that has occurred through the construction and the plumbing industry over a number of years now, to look at itself and at how it is hindering those industries and hindering the economic growth that those industries could partake in even further in the future.

In conclusion, this is an important bill and is one that, as I outlined from the start, has broad support. All interest groups that the Liberal Party has spoken to have been supportive of it, and we are keen for many parts of this bill to be introduced and acted upon as soon as possible. As I have said, we support the bill for a number of reasons. The plumbing code should be incorporated into the Building Act; registered plumbers should be able to conduct specialist work when under proper supervision; and Australian standards should be applied to all plumbing work.

We have some concerns, but I hope they will not materialise from the passage of the legislation. I hope the positives will materialise, and that is why we are supporting the legislation today.

Mr DRUM (Northern Victoria) — The Nationals will not be opposing the Building Amendment (Plumbing) Bill of 2007. It is a bill that will have a positive impact as it will enable people throughout Victoria to access the appropriate tradespeople that they need to do work in a timely fashion.

Everybody understands, especially in regional Victoria, that it is getting harder and harder to contract the required tradespeople to do work. In regional Victoria the time frames for getting a house built have blown out to being well over six months before you can even get started. Those people involved in the trades have as much work as they can possibly handle, and we really need to look very carefully at how we can increase the number of people who are turning to trades as a vocation.

This bill will effectively enable the regulations under part 12A of the act to incorporate the Plumbing Code of Australia. The bill will also enable registered plumbers to carry out specialised plumbing work on behalf of a licensed plumber, and this is possibly the crux of the entire bill. At the moment registered plumbers can do a whole range of duties for licensed plumbers, but there are very strong restrictions on how much work those registered plumbers can in fact do. This bill will in effect enable those registered plumbers to do more specialised work, and I will get to that later on in my contribution.

The bill will also provide for certain restrictions and obligations relating to plumbers and expand regulation-making powers, particularly in relation to plumbing work. In effect this bill will bring the plumbing regulatory regime into line with those regimes that apply throughout the rest of the building industry, and that will be appreciated within the plumbing sector.

Over the past few years the plumbing sector has become much more specialised with technology and inventions. The gadgetry in houses, the prevalence of heating and cooling systems and the restrictions relating to personal safety have meant that things like fire sprinklers are becoming the norm throughout commercial properties and so forth. There is a whole range of increased need for this specialised type of plumbing work.

The bill also will enable an owner to obtain — and Mr Guy was comprehensive when he was talking along these lines — a compliance certificate within a specified time from the registered practitioner who has been given the compliance certificate. While this will be a positive for consumers who are bringing contractors into their premises, it will place an onerous burden on those businesses that have to get this type of compliance done in a short space of time.

At this time one of the drivers of the disparity between qualified plumbers — those who then go on to become registered plumbers and those who then go on to become licensed plumbers — has an enormous amount to do with the cost of insurance and the compliance and the qualifications needed to become a licensed plumber. There are some leading plumbers around Bendigo in my region who have up to 12 different categories of insurance to cater for the various different types of work. If the plumber were working in refrigeration he would have to have certain and specific insurance for coverage in that area. He would need a high pressure ticket and insurance to cover that as well. Plumbers doing heavy industrial work, commercial work and residential work need different qualifications and different types of insurance. It is quite restrictive for plumbers who know how to do the work and are qualified to do the work in each area but who simply are not able financially to keep up the insurance cover associated with each of those aspects of the industry.

There is a need for plumbers but only a select few within the plumbing trade have the respective licences and insurance cover for different types of work. Currently there is no option other than to get work done by registered plumbers using the protection and the insurance cover provided to licensed plumbers. This bill will expand that arrangement and provide for specialised plumbing work, such as work associated with type E gas and fire sprinklers. Fire sprinkler work is becoming more common due to concerns about public safety and the need to make sure that all commercial buildings are fitted with this type of safeguard.

The Nationals will not be opposing the bill because it will make it easier for licensed plumbers to pick up the trades people they need. It will enable people who are qualified to do the work to operate under an organisation that can afford to customers the appropriate checks and balances and the insurance protection they need.

The government needs to be aware that insurance costs in the plumbing sector are becoming prohibitive. Time and again the government has had to defend the current situation regarding builders warranty insurance. Whilst the furore from the building sector surrounding builders warranty insurance seems to have died down to some degree in the last few months, it is still the most ridiculous situation imaginable. Every couple that wants a registered builder to build a home is paying an insurance company in the vicinity of $2000 for an insurance policy that is absolutely useless. It beggars belief that (a) insurance companies are not offering a more cost-effective option than a $2000 policy that only one in every 50 000 policyholders actually ever get an opportunity to claim on, and you have to ask why the premium is so high, and (b) that the government cannot continue to assist with that situation at the moment. It always comes back to consumers, who are already stretched when purchasing a new house.

As I am sure the government is well aware, these factors are leading to a very unhealthy trend in Victoria at the moment, where families are being tempted to let non-licensed builders without insurance build houses for them under the owner-builder arrangements, which throw all responsibility for defective and faulty workmanship back on the family that is having the house built. It has been made very clear to me that the prohibitive cost of insurance in the plumbing sector is still an issue in the building industry. We know that there is still not enough happening in relation to reducing the cost of builders warranty insurance throughout the state. The Nationals will not be opposing this legislation, because we believe it has some positive aspects and will provide benefits to the people of Victoria.

Mr BARBER (Northern Metropolitan) — The Greens will be supporting this bill.

Mr LEANE (Eastern Metropolitan) — It may be appropriate that I get to speak on a bill regarding plumbing after recently having had to hit the showers. I am very pleased to speak on this bill. Credit should be given where it is due, no matter what the party affiliation, and the first 6 minutes of Mr Guy's speech were very good — after that he slipped back into what we are used to from Mr Guy — in explaining the technicalities of the bill, so I will not go over those. I should also compliment Mr Drum on his explanation of the technicalities.

The crux of this bill is that it will enable registered plumbers to undertake specialised plumbing work under the supervision of a licensed plumber. I have spoken to stakeholders in the plumbing industry regarding this bill, including my union mates at the plumbers union, which includes the national assistant

secretary, Earl Setches, and other officials of the union. I have spoken to a number of plumbers and plumbing companies and to the Building Commission. All the stakeholders support the bill because of its common-sense nature. The provisions in the bill will help with the skill shortage in the plumbing industry by freeing up registered plumbers who can do specialised work under the supervision of a licensed plumber. Plumbers have become more and more important in recent times due to global warming and the water-saving initiatives that need to be introduced, a lot of which have come from the plumbing industry.

I would like to touch on a few of the recent initiatives that have been introduced, like the development of the Southern Cross building, of which this government is one of the occupants, where a blackwater recycling plant has recently been installed by plumbers. All the water and the sewage goes to a treatment plant in the basement, where 75 per cent of the wastewater is collected and treated. It basically goes into a treatment plant, gets disinfected and then pumped up into the roof of the building into a holding tank, from where it is used to flush the toilets and urinals. That is an initiative that has recently been installed, and it is getting introduced in more and more new high-rise buildings in the metropolitan area and further out. I think that is very impressive.

I also want to touch on the Southern Cross station, which recently won the top architectural award in Victoria. I think it won that award because of the wavy roof that was installed by plumbers. That roof collects water which then goes into holding tanks. It is a very impressive building that we will have here in Melbourne for a long time. I congratulate the plumbers who did the work on that building.

We have got to the point — I think it is a special point — where the plumbers' work on the treatment plant at the Melbourne Zoo has become a display. There is a glass front to the treatment plant, and people go and look at it as part of the exhibition at the Melbourne Zoo. I would probably go and look at the monkeys before I would look at that treatment plant, but that is where plumbers work has become interesting.

I would also like to compliment the plumbing stakeholders who are currently building the Brunswick Plumbing School, which happens to be in Brunswick. This school will be all about green plumbing. It will hold courses for plumbers in water-efficient work stations; the third-pipe system, which has recently been introduced; rainwater filtration; greywater systems; blackwater systems; stormwater; and, just as importantly, sustainable mechanical systems in the air-conditioning area, where a number of gases are used that can be a problem for the environment.

The bill addresses the skills shortage area in plumbing. I have spoken about this before; I believe the biggest villain in the skills shortage area was the Kennett government when it privatised these authorities and put nothing in place for the training of apprentices. The bill does alleviate a bit of that skills shortage, and I commend it to the house.

Mr O'DONOHUE (Eastern Victoria) — I am also pleased to rise in support of the Building Amendment (Plumbing) Bill. I will pick up where Mr Leane left off by agreeing that Mr Guy did an excellent job in analysing the bill and giving a clear brief to the chamber.

I would also like to pick up on another comment made by Mr Leane that the Kennett government was the government responsible for the skills shortage. Let no-one forget that it was the Kirner government that abolished technical schools — a shameful act that meant that a generation of young people in Victoria missed out on the opportunity of gaining a technical education and therefore the ability to become a tradesperson, a most worthy occupation. It is because of that shameful act by the Kirner government that we have the skills crisis in Victoria at this very time, with the shortage of plumbers and various other tradespeople.

I congratulate the Howard government for picking up where the Kirner government left off by introducing Australian technical colleges. Those colleges are already adding to the skills base of Australia, which is again an example of the federal government picking up where the state government has vacated the field at the expense of the Victorian people.

I pick up on a matter raised by Mr Drum. He raised the issue of builders warranty insurance, and he made some excellent comments in relation to that. I would endorse the comments he made, and I would add that I look forward to the debate progressing on notice of motion 12 on today's notice paper in the name of Mr Rich-Phillips, which proposes the creation of a select committee of five members to inquire into and report on domestic builders warranty insurance in Victoria. This is an issue of concern to the building industry in Victoria, and I again endorse the comments made by Mr Drum. I look forward to that debate coming on before the house, because it is a debate we need to have and a debate the Parliament should have.

The bill does a couple of important things. It brings the Plumbing Code of Australia under the jurisdiction of the Building Act, which is a worthy initiative. It legislates for product standards to apply to plumbing work, and this will ensure that plumbers are required to use products with Australian standards approval when conducting all work. This may have some cost implications, but, as Mr Guy stated, broadly those costs will be worthwhile and relatively minor. The industry broadly supports the amendments that are made by the bill. With those brief comments, I reiterate that we will be supporting the bill.

Mr TEE (Eastern Metropolitan) — This bill goes some way to alleviating the skills shortage in Victoria, and that is important. While the bill goes some way to alleviating that shortage, the Australian technical colleges, as trumpeted by Mr O'Donohue, do not. They provide for few students, they provide few graduates, and they are of little relevance to industry.

Mr Leane — There is not one plumber!

Mr TEE — And there is not one plumber, I am reliably informed. Not only that, this waste of potential comes at great cost to the Victorian taxpayer.

This bill is indeed a product of the states and territories working together in the interests of all stakeholders, and in that sense it is the outcome of a collaborative approach which will provide for a more efficient regulation of the plumbing industry that will indeed reduce the cost and complexity of regulation and allow plumbing work to be done in a more flexible way. Critically, while reducing regulation and increasing flexibility, the bill does not compromise work safety and it does not compromise the protection given to consumers.

This bill implements the Plumbing Code of Australia, which, as I have indicated, was developed by all states and territories. The incorporation of this code in the legislation will provide a seamless implementation of the code and overcome the current difficulty where individual changes to the code have to be made in Victoria. As I said, this is a model for a collaborative approach between the states and the territories. It shows that collaboration achieves results. As we have seen with other approaches, such as the Murray–Darling Basin, a take-it-or-leave-it bullyboy sort of approach does not deliver. A ham-fisted commonwealth approach fails to deliver any tangible reforms, and I think this bill is a lesson for the Howard government about how you do effect reform. As I said, the lesson is that collaboration wins over conflict. I hope for all our sakes the commonwealth government will take note of that in the important area of water.

As well as the improved regulation the bill proposes a number of practical amendments to plumbing industry practice. One that has been canvassed is the removal of the requirement that plumbing audits occur between 8.00 a.m. and 6.00 p.m. This will be convenient for owners of homes where there has been plumbing work who may have a concern about the defective nature of the work. It provides an opportunity for the house to be inspected outside of the work hours of the homeowner, which may mean they do not have to take time off from work to facilitate the inspection.

Another important change is the provision of flexibility, which will allow registered plumbers to undertake specialised plumbing work under the supervision of licensed plumbers. This will allow a licensed plumber to supervise a number of registered plumbers without those registered plumbers having to go through the extra steps of obtaining a licence. The work of these qualified plumbers will still be supervised, so the controls which ensure standards will not be compromised. The fact that the plumbing work is undertaken under the supervision of a licensed plumber will mean the owner will still have the protection of a compliance certificate.

I commend the bill to the house. It contains a number of common-sense reforms which will reduce the cost of business. It will reduce costs to consumers and will maintain the existing high standards and protections. It is the type of reform that has become the hallmark of this government. I commend the bill to the house.

Mr THORNLEY (Southern Metropolitan) — I rise, as others have, to support this bill, which will result in many winners and no losers. I guess that is why there is nobody opposing it, but it is a sign of good work in government, of what governments do day to day. It may not always be sexy and attract headlines, but it is this type of hard, grinding work which is gradually changing things for the better and which is delivering the quality of life we have come to enjoy in Victoria. The winners from this bill are both businesses and consumers, particularly in relation to housing affordability, which is a critical topic at the moment. As is always the case, it is the way you design the markets that determines how effectively those markets work. This bill is yet another example of effective market design and how that is central to good government.

In specific terms there are a couple of very clever things about what is happening here. Whilst they are important in this bill, they reflect a wider set of principles that are

being applied in a wider range of industries. Firstly, we are modernising the regulatory framework to allow it to be more flexible and to adapt to changing circumstances without the need to always come back to this place and work through this channel, which can sometimes be a bottleneck and delay change. That is pretty important, particularly when we look at the rapid changes that are occurring in water technology, in the demand for water recycling and other forms of water processing, and, undoubtedly as a consequence, in the rapidly changing work of plumbers. It is important that we can have a regulatory framework that can change and adapt to keep track of those changes and ensure that we continue to get good outcomes without having to take all of them through the Parliament. That is an important part of what is being done in the amendments to the act. I commend them.

Secondly, this is part of the very wide-ranging work this government has done to reduce the costs to business of red tape. Victoria is by far leading the nation — all other jurisdictions, both state and commonwealth — in that respect. Further, it is taking the lead through the national reform agenda in gaining consistency of regulation among all states to ensure that all service providers, cross-state businesses and others can deal in a consistent framework. Related to this is the work we have done to ensure the cross-recognition of trade qualifications between the states to enable the rapid movement of service providers and tradies throughout the country, again making markets work more efficiently with no downside for anybody.

That is part of a wider picture again. These types of reforms are supported throughout the business community at every level, from the tradies who are affected by this type of specific legislation right through to the peak business bodies that represent businesses, large and small. These are the sorts of changes they are expecting to see. As I have made my way about the country talking with peak business bodies about the national reform agenda, and competition and regulatory reforms in particular, the harmonisation of state legislation and the reduction of red tape, I have noticed that this government is seen to be the leading jurisdiction in the country and accordingly has received warm accolades from those peak business bodies.

I would like to mention one other example to illustrate a wider point. It seems to be a small part of this legislation, but it is the small changes in detail which add up over time to significant changes. The amendments which enable an owner to obtain a compliance certificate within a specified time frame sound as though they are intended to be a convenience to owners to help ensure paperwork is completed on time, but they are part of a wider framework designed to ensure the housing market works more efficiently so we can generate greater affordability. Some of us have been pointing out for some time that the biggest challenge in the housing market has been on the supply side.

If you want to impact the supply side, you have to look at a wide range of possible mechanisms to do that, not just one. We hear constantly from those opposite about one solution, land release, even though that does not appear to be the bottleneck in the system. It is not in the great state of Victoria. One of the more practical things you can do is reduce the cycle time from the release of land to people moving into homes. There is plenty of stuff in the pipeline right now, but if you can reduce the cycle time in the pipeline, you will get more people into homes quickly and have a greater supply coming into the market, which will therefore impact on affordability.

Those sorts of details are not sexy and simple, and the IPA (Institute of Public Affairs) did not write it, but if those opposite were actually interested in bringing about answers, they would be looking at those sorts of details. When the building work has been done people cannot move into a home until they get an occupancy permit. To do that they need a copy of the certificate. This change simply ensures that will occur in a timely manner.

By working through these issues piece by piece, focusing on the detail and what is actually happening out there in the real world rather than what is written by others at the IPA, we are in the business of continuing to ensure that Victoria has housing that is among the most affordable in this country. Given the crisis of housing affordability, the changes being made by the bill and other changes will continue to ensure that we impact particularly the supply side and that affordability will continue to be addressed. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Mr LENDERS (Minister for Education) — By leave, I move:

That the bill be now read a third time.

I thank all speakers for their contributions.

Motion agreed to.

Read third time.

CRIMES AMENDMENT (DNA DATABASE) BILL

Second reading

Debate resumed from 21 June; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this morning and report that the Liberal Party will support the Crimes Amendment (DNA Database) Bill 2007, which seeks to make amendments to the Crimes Act with respect to provisions for the use of DNA information.

For a decade Victoria has been a leader among Australian jurisdictions in the use of DNA technology, following legislation that was first introduced in 1996 by the previous Liberal government to allow the collection and use of DNA technology in determining criminal matters. As honourable members would know if they watch what passes for commercial television in this country, on most evenings you will see a range of television programs based on crime fighting using technology — and seemingly, if they are to be believed, crimes can be solved by DNA technology in the space of an ad break!

Mr Guy — Isn't that true, though?

Mr RICH-PHILLIPS — I think, Mr Guy, the reality is quite different and the use of that technology is quite a bit more complex than is suggested by those television programs. Nonetheless, DNA technology has been very effective in this jurisdiction and others around the world in solving a range of crimes that otherwise would have gone unsolved but for its use. It has been used not just in criminal matters, but we are talking in the context of debate on this bill.

In 1999 we saw the first dormant case in Victoria solved by the use of DNA technology. That case had been on the Victoria Police books for an extended period, and it was only through the collection of DNA evidence that that crime was subsequently solved. Since then we have seen this technology used in the Victorian jurisdiction to solve a number of dormant criminal matters. It is for those reasons that the Liberal Party indicates its support for this legislation, as it has supported previous legislation that strengthened the powers of Victoria Police and the anti-crime agencies in Australia generally to make use of DNA technology.

The bill being considered this morning is in many respects a catch-up bill because what it will allow in cross-jurisdictional activity has been under way in other jurisdictions for at least 18 months. Currently Victoria undertakes matching of DNA material with other jurisdictions in Australia on a bilateral basis. This legislation will recognise the establishment of a national database — the national criminal investigation DNA database — which will hold material from all jurisdictions and be available on a multilateral basis for use by Victoria and other jurisdictions. The database has been operated in a limited form by some other jurisdictions. This legislation will introduce Victoria as a participant in that, which will mean that Victoria Police will have open access on a broad basis to the material across the other state and commonwealth jurisdictions.

One of the other key changes introduced by the bill is the updating of the matching table contained in the current Crimes Act. That table sets out seven distinct categories of DNA material based on the person from whom it is collected. The categories are crime scene, suspects, volunteers for a limited purpose, volunteers for an unlimited purpose, serious offenders, missing persons and unknown deceased persons. Currently material that is collected is categorised into one of those seven categories based on its source and then, in accordance with the table in the Crimes Act, it can be matched against material collected from those seven categories for the purpose of solving crimes or identifying deceased people et cetera.

The bill expands the number of combinations within that matrix which can be used for the matching of DNA material. The proposed amendment applies a restriction to the matching of DNA material only to limited purpose material supplied by volunteers. The only restriction on the matching of DNA material under that table will be that material from a volunteer or in relation to a volunteer can be used only for the voluntary purposes that were identified when the material was made available. With the exception of that constraint, all other combinations of the categories of collected material will be available to be matched with the other available material.

One of the other provisions of the bill expands the capacity of the Attorney-General as the responsible minister to enter into agreements with other jurisdictions. Whether that is with CrimTrac at a national level or with individual state agencies, the Attorney-General will have expanded capacity to enter into cooperative agreements with those agencies in other jurisdictions for the sharing of bilateral DNA material.

The bill inserts new provisions relating to investigations undertaken by the Office of Police Integrity or the Ombudsman, George Brouwer. Under the changes the

bill introduces, DNA material relevant to an investigation by the OPI can be made available to the OPI for the purposes of its investigation.

Members of the Liberal Party consider these matters to be sensible improvements to the legislation. We welcome the recognition of the national criminal investigation DNA database for its multilateral DNA-matching purposes. We are concerned that it has been delayed in the sense that other jurisdictions have already been operating in this manner for around 18 months and Victoria is only now coming to the party.

We note that, during the consultation process undertaken by members of the Liberal Party, concerns were expressed by the Law Institute of Victoria with respect to the broad scope of matching of DNA material that will now be possible under the new matrix that will be inserted in the Crimes Act. To paraphrase, the law institute was of the view that material should be matched from categories only in relation to similar categories, so there should not be cross-categorisation of matching of material where it is not collected for a similar crime. However, it is certainly the view of members of the Liberal Party that the proposal in the bill for the broader matching is acceptable, given the likely benefits it will have for law enforcement in the state.

In saying that, we recognise that the use of this DNA technology is something that needs to be safeguarded. There is certainly scope for abuse of the technology. We increasingly see the use of DNA technology in civil proceedings, particularly around the Family Court of Australia. Obviously that is an area that is beyond the scope of this bill, but it is an area that highlights the way DNA material needs to be safeguarded so that it is not used inappropriately. However, in this instance it is the view of the Liberal Party that the benefits arising from this legislation outweigh the concerns that have been expressed by the Law Institute of Victoria. In that sense the Liberal Party will support the bill.

It has been the position of the Liberal Party over the last decade, as I said, since the first DNA legislation was introduced in this state, to support the use of this technology for law enforcement. The bill before the house this morning goes further in that regard and strengthens the opportunities for law enforcement in Victoria to make use of this technology in crime investigations. The Liberal Party will support the bill and looks forward to its speedy passage.

Ms PENNICUIK (Southern Metropolitan) — After much consultation and thought, the Greens will not oppose this bill. However, some concerns have been raised with us and some were expressed in the debate in the Legislative Assembly. In the second-reading speech for this bill in the other place the Attorney-General stated that this bill provides for the legal recognition of the NCIDD (national criminal investigation DNA database), amends the table which governs what sample matches can legally be made between jurisdictions, broadens the power of the Attorney-General to enter into agreements with other jurisdictions and allow automatic matching of samples, and updates oversight and enforcement.

I note that this bill emanates from agreements between the commonwealth, states and territories about the sharing of DNA information on respective databases automatically through the NCIDD. These databases exist, but I believe it is still worth asking the question to what extent they should. Whose DNA information should be stored on databases and why? The table in new section 464ZGI outlines that the DNA stored can come from crime scenes; suspects; serious offenders; missing persons; unknown deceased persons; volunteers for unlimited purposes — that is, volunteers who have supposedly given their sample for any purpose whatsoever; and volunteers for limited purposes — that is, volunteers who have given their sample for a specific purpose only. Under this bill all data can be crossmatched, except for that of volunteers who have given their data for a limited purpose only. Under this bill their data can only be matched if it is within that purpose.

In the second-reading speech the Attorney-General said that the NCIDD offers significant efficiencies that will assist in identifying suspects, missing persons and disaster victims. Many speakers in the Legislative Assembly alluded to the benefits of the NCIDD in identifying disaster victims. I am sceptical about this claimed benefit. In a media release dated November 2006 the then federal Minister for Justice and Customs only mentioned missing persons and perpetrators of serious crime. Surely the NCIDD will only be of assistance in identifying disaster victims if they have a sample on the database in one of the aforementioned categories. This is not likely to occur often. I asked this question of the departmental officers, who confirmed that this is the case — that is, that the NCIDD would only be of use if the disaster victim just happened to be on the DNA database. This benefit is overstated.

There is no doubt that DNA sampling is a useful tool in solving crimes, but it is only a tool. It can only ever be part of a suite of evidence in a criminal case. It is dangerous to place too much weight on DNA evidence. The testing procedures can be fallible, and DNA, unlike

fingerprints, is very transportable and therefore could be planted at crime scenes. In its submission to the 2002 inquiry into forensic sampling and DNA databases the Law Institute of Victoria raised this issue of the risk of error. I quote:

> You are already aware of the risk of error in any forensic sampling exercise: specimens may be contaminated; minute quantities of DNA can contaminate reagents and materials used in analysing a number of samples; reagents themselves may be defective or there may be something unusual about the item upon which a sample is found, such as fabric dye, which can give misleading results.
>
> Human error also cannot be ruled out. The profession's confidence in the system has already been undermined by administrative problems, such as failure to provide orders despite repeated requests.
>
> Whether the current forensic sampling laws are to broadened or not, we ask for improved and very close controls over sampling, testing and administration, along with public accountability about their use.

The question arises again about the retention of DNA information on the database. Which categories of person should the law allow the police to keep this information about? I have serious reservations about the retention on a database of DNA information from volunteers who have consented to provide their DNA either for a specific purpose or for so-called unlimited purposes. I have not been able to ascertain how many people actually do this, but they may not be aware that this means their DNA may be held on a police database forever.

I also seriously question whether DNA information from a person suspected of a crime should be entered into a database that can be searched by other jurisdictions. A person suspected of a crime is a person no different from you or me — that is, they are innocent until proven otherwise. There is no objection to a sample being taken subject to judicial process if there is other evidence that a person may have been involved in a crime, but I do not see why such a sample should make its way to a nationally searchable database when a person has not been convicted of any crime. The law institute said in its 2002 submission that:

> … police powers should not be extended, as proposed, to routine sampling of all people suspected, charged or convicted of a crime and compulsory sampling of all people convicted of indictable offences. Ordering of samples must remain subject to judicial process since this is the only safeguard currently offered to protect civil liberties. The fact that judicial scrutiny makes it more inconvenient for police to obtain DNA samples takes into account the importance of this protective role.

Unfortunately the need for judicial protection of civil liberties has been highlighted by cases such as the Lissoff case. We have seen this week that we need to be very vigilant about the treatment of people suspected of crimes. The suspect is always presumed to be innocent until proven otherwise.

The law institute reiterated its concerns in a letter dated 16 May 2007 sent to Robert Clark, the member for Box Hill in the other place, a copy of which the institute sent to me. In that letter the law institute said it:

> … agrees with the submission made by Victoria Legal Aid to the Victorian parliamentary law committee's inquiry that forensic sampling ought to be used to confirm criminal investigations rather than to investigate anyone who comes into contact with the criminal justice system. The LIV submits that it is of great importance that forensic sampling should not be able to be used as a 'fishing expedition' for investigators. There should be reasonable grounds for suspecting a link between an individual and a specific offence before samples can be taken or used.
>
> The LIV notes that clause 8 of the bill proposes to expand the permissible matching of DNA profiles within the national criminal investigation DNA database (the NCIDD). The LIV submits that the proposal to expand the permissible matching of suspect DNA samples is incompatible with the fundamental presumption of innocence. Under s25(1) of the Charter of Human Rights and Responsibilities Act 2006, a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to the law. This protection must also extend to those suspected of a crime.

I have also been advised that under the law the DNA sample of a suspect must be destroyed after 12 months but there is a delay in destruction of those samples. I question why they should make their way into any database if no-one has been convicted of a crime.

Another issue of concern is retrospectivity. It appears that a DNA sample placed on the database may be able to be given to another jurisdiction even though this was not contemplated when the sample was taken and/or put on the database and the sample is to be matched for an offence committed after the commencement of the act. This is a problem, because a court would have ordered that a sample be taken for a purpose other than this, and people would have volunteered samples without knowing they would be used for another purpose or would end up on a database. I have sought clarification on this point — that is, that samples cannot be used retrospectively — but I have not been assured on this point. Perhaps the minister could address this point in summing up.

Sections 12(1) and 12(2) appear to mean that any database in existence prior to the commencement of this act — that is, the current Victorian database held by the Chief Commissioner of Police — will not be treated any differently to DNA collected after the

commencement of the act. Considering the changes to what data can be crossmatched, this is extremely problematic.

Another issue that has been raised in researching the bill is the backlog in taking forensic samples — I have heard it is up to two years. It is important that the process of justice is not unduly held up by delays in processing forensic samples in criminal cases. Mr Cameron, the Minister for Police and Emergency Services in the other place, said when appearing before the Public Accounts and Estimates Committee on 11 May:

> … that you will see include additional forensic capability, so we have seen during the term of the government an additional 46 forensic people, and the government is committed to further increasing that by 25. That is obviously important because those additional staff will deal with the predicted growth in demand for DNA samples, which is expected to grow to 45 000 by 2010.
>
> What we have done is put investments into forensics, obviously, and what is expected as a result of that, additional equipment that will be acquired that can work quicker, is that the police expect that the processing capability will be at 50 000 samples per annum by that time.

I am not sure if that will be enough. The question is whether this bill strikes the balance in terms of broader policy issues — the balance between protecting privacy and potential misuse or abuse of DNA evidence on the one hand, and the improved crime investigation and law enforcement on the other. The police are always happy to receive more powers, and we should always be vigilant that bills such as this do not amount to creeping police powers at the expense of civil liberties.

The Attorney-General made this point in the Legislative Assembly on 30 October 1997 in the second-reading debate on the Crimes (Amendment) Bill:

> Some aspects of the legislation can be described only as heading towards being draconian; they almost go as far as being described as police-state stuff.
>
> From time to time it is necessary to give police increased powers, but when we do so we always have to keep in mind the need to maintain the appropriate balance between law enforcement and people's civil liberties.

Later in the debate he said:

> Due to the obvious personal liberty implications arising from the taking of such samples, police have had to show that there were reasonable grounds to believe the procedure would tend to confirm or disprove the involvement of the suspect in the commission of an indictable offence where the suspect was suspected of or had been charged with that offence.

The Greens recognise that DNA samples provide a very important tool in establishing guilt and innocence in criminal investigations. Indeed DNA has been used to establish the innocence of people wrongly convicted of crimes. However, we always need to be sure that information kept about individuals by government agencies, particularly the police, is demonstrated to be necessary and is governed by appropriate safeguards. I am not entirely reassured that this is the case here, notwithstanding the agreement of the states and territories to sign up to NCIDD.

I understand the Department of Justice is currently undertaking consultations on the review of investigative powers and forensic procedure provisions under the Crimes Act, which hopefully will look closely at the issues I have raised today and other associated issues.

Mr HALL (Eastern Victoria) — I am pleased to report to the house today that The Nationals will support the legislation. By amending the Crimes Act 1958 the bill will enable the national automatic matching of data on DNA databases. The important thing about the legislation going through the Parliament today is that it comes with the consensus of other jurisdictions around the country as a result of the work undertaken by the Standing Committee of Attorneys-General and the Australasian Police Ministers Council. I think it is important with bills like this that there is that level of cooperation between the various jurisdictions. That makes it better legislation.

Currently Victoria is engaged in a limited basis in DNA matching through various databases, but for the first time this legislation will set it up on a national basis to enable various jurisdictions to seek matching through databases at a national level. As I understand it, at the moment Victoria has some agreements with other states. It needs to approach other states individually to see if there is a match on the DNA database held by that particular state, whereas under this system Victoria, as a participating organisation, will go to the national database. For efficiency and cooperation, this sort of legislation seems to us to make a great deal of sense.

I listened with interest to the comments made by Ms Pennicuik about her concerns as to how this will operate, particularly some of the privacy concerns she expressed. I have some sympathy for those views. As Ms Pennicuik commented, there has to be a balance between the needs of our officers who fight crime in this country and the risk of any privacy issue being exposed. In terms of finding the right balance, I think, with the level of crime our various police officers have to fight now, that it is acceptable that there are certain levels of privacy risk that we, as members of Parliament, should be prepared to take. I think it will reflect community views, in that the small privacy risk

associated with the establishment of a national database like this is warranted given the need to fight crime in this country. We are happy that that balance is right. It is a fairly simple procedure, which makes common sense and has the cooperation of all jurisdictions. We are happy to give our support to it.

Ms MIKAKOS (Northern Metropolitan) — I am very pleased to rise to speak in support of the Crimes Amendment (DNA Database) Bill, a bill that reflects this government's election commitments as set out in the *Community Safety — Labor's Plan for Keeping Crime Rates Low* document. That commitment outlined how the government would ensure that Victorian laws would facilitate an effective comparison with DNA data from across Australia. This bill also recognises the need for a national coordinated, multijurisdictional approach to law enforcement — something that has been under active discussion and cooperation between the states for some time.

The main provision of the bill enables Victoria to participate in automatic DNA data matching with other Australian jurisdictions via the national criminal investigation DNA database (NCIDD). This bill will help save Victoria Police valuable time and resources by enabling the early identification not only of suspects in criminal matters but also of missing persons and disaster victims. Victorian authorities will be able to get the information they need more quickly and efficiently while the protections and safeguards of people integral to our DNA data regime remain undisturbed.

The NCIDD system, which allows samples from participating jurisdictions to be automatically matched through a single database, has been partially operational since 2003. It was intended that the existing legislative framework would allow for full use of the NCIDD. However, a number of procedural and technical difficulties meant that there was a big time lag between the introduction of the legislation and the parallel development of the necessary technology.

In May 2006 a SCAG (Standing Committee of Attorneys-General) working group agreed on the amendments that needed to be made to the commonwealth legislation to allow for full interjurisdictional sharing of DNA information, and the commonwealth passed its Crimes Act Amendment (Forensic Procedures) Act only late last year. The timing issues were clear to all jurisdictions last year, and after the commonwealth introduced its changes the other states and territories were able to follow suit, with Victoria doing so as soon as possible after our re-election late last year. While the legislation was being finalised, Victoria continued to engage in DNA matching with other jurisdictions on a bilateral basis. What the NCIDD now offers is a streamlined, automated system that allows checks to be made across all participating jurisdictions simultaneously.

I am pleased to say that this bill is compatible with our Charter of Human Rights and Responsibilities. It maintains the safeguards that currently exist in relation to how DNA samples are taken, stored and used and continues to protect the privacy of individuals. I certainly understand her perspective and the concerns that Ms Pennicuik raised in her contribution, because I, too, come at these issues from a civil libertarian perspective, and I always ensure that I look at whether the appropriate safeguards have been put in place in this type of legislation. I believe a number of safeguards have been put in place and that an appropriate balance has been struck between protecting privacy issues and protecting civil libertarian concerns but also enabling effective law enforcement.

While the NCIDD contains DNA information, it does not contain other identifying information such as a person's name. Once a match has been made through the NCIDD it will require the jurisdiction involved to provide identifying information. All the existing safeguards in relation to the taking, storage, use and disposal of DNA samples remain unaffected by this bill. The bill contains very strong oversight and enforcement powers. It keeps the right balance, as I said, between protecting privacy and the individual's DNA information and allowing the police to do their job properly in detecting crime and protecting the community.

It is important that we strike that appropriate balance in a complex issue such as this — the balance between privacy and human rights and enforcement powers. We have stressed the need to safeguard the privacy of individuals and also guard against the misuse of DNA samples for other purposes. The offence provisions in the legislation have been strengthened so that they apply to any misuse of information obtained from Victorian samples here and in other jurisdictions as well. At the same time we have provided Victoria Police with a fantastic crime-solving tool which will make it easier to find criminals at the same time as protecting and exonerating the innocent. Ms Pennicuik in her contribution touched upon that, and while she has pointed out that DNA is not a perfect tool, it is a very effective tool and has been able to exonerate some people on death row in the United States of America, as I am sure she is aware.

One of the main provisions of this bill changes the matching table that governs types of DNA samples —

for example, there are certain provisions within the tables of each state for things like crime scenes, crime suspects, volunteers, missing persons et cetera. The new table will allow the NCIDD to make as many potential matches as possible and to maximise the benefits for criminal investigation as well as other investigations, such as disaster victim identification and missing persons. These two areas are increasingly becoming more important to our communities, and the fast and efficient provision of information on missing persons and disaster victims will only bring relief to Victorian and Australian families and communities.

Victoria has led the way in analytical know-how and investigative techniques in the important area of disaster victim identification. We well remember the Bali bombings and their aftermath, and more recently the Kerang rail crash. Victoria Police and its forensic science facility provided advanced and sophisticated assistance in both instances, where the speedy identification of victims has been of utmost importance. In tragedies like these the government recognises that time is of the essence in providing support and peace of mind to the families of those involved.

The Bracks government has an ongoing commitment to improving the way our law enforcement agencies work and providing them with access to the latest information and technology. This legislation complements our other initiatives in this area, such as recruiting 1600 extra police into Victoria Police and providing 60 per cent extra funding to police resources. I am really pleased that in this year's budget there is also a commitment of $8.8 million for increased forensic capacity for Victoria Police, including an additional 25 forensic investigators.

In relation to the issue that Ms Pennicuik raised about ensuring that samples provided by volunteers, obviously for a limited purpose, are not used for other categories by virtue of their being in the database, I want to advise that CrimTrac, which is the commonwealth government agency that runs the NCIDD, is required to run matches only in accordance with the matching rules of individual jurisdictions. In the case of Victoria this bill provides the rules for what can be matched under clause 8. CrimTrac will only be permitted to run matches in relation to volunteers for limited purposes, where volunteers have elected to provide a sample only for specific matching purposes, if the particular match is within that limited purpose. Any failure by CrimTrac attracts serious criminal penalties under existing offence provisions of the Crimes Act.

In addition to that, the legislation will be underpinned by ministerial arrangement with other participating jurisdictions, including CrimTrac, which sets out the obligations around matching. Victoria cannot commence matching through the NCIDD until the Attorney-General has signed this ministerial arrangement and these procedures have been put in place.

In relation to Ms Pennicuik's concerns about retrospectivity, again in relation to the issue of volunteers, there are, as I said, provisions in the bill for safeguards in relation to that. As I understood her question she was getting to the issue of whether those samples would be able to be used for other purposes, and I can assure her that where a volunteer has provided a sample for a limited purpose, it will only be able to be used for that limited purpose. There is a statutory obligation on Victoria Police to destroy the sample and remove the identifying information relating to the sample from the Victorian database after that limited purpose has been served. In effect a sample provided for those limited purposes will not be available for matching through the NCIDD in those circumstances.

Can I say by way of conclusion that this bill provides the appropriate safety provisions that I have outlined. It is compatible with our human rights charter, but it also gives Victoria Police an appropriate and sophisticated tool to tackle criminal conduct, to solve crimes and to protect the community. It will reduce the administrative burden on Victoria Police, in particular the forensic science centre, with an extension of time for the keeping of suspects' samples, and reduce the threshold for police taking samples of DNA and obtaining court orders for the compulsory acquisition of DNA samples. It is a bill that is consistent with the Bracks government's commitment since it has been in office to making Victoria a better and safer place to live and raise a family and to providing Victoria Police with the best crime-fighting capabilities available.

Mrs KRONBERG (Eastern Metropolitan) — I am very pleased to speak on the Crimes Amendment (DNA Database) bill. The purpose of this bill is to enable the state of Victoria to fully participate in national DNA data matching through the national criminal investigation DNA database (NCIDD) and to broaden the range of matching of DNA samples. In rising to support this bill I feel it is also necessary to highlight my concerns that even though the NCIDD has been in place since 2003 and the commonwealth introduced amendments to legislation back in 2006, this legislation is only now being introduced.

I understand through my research that there has been a considerable amount of negotiation going on during this time. It is a profound relief, because it is such an important policing tool, to see it brought into this place at long last.

The main provisions of this bill include the recognition of the national criminal investigation DNA database as a separate entity and the changing of the matching table that specifies the types of DNA that are permitted to be compared with other DNA sample categories. The current classification of DNA samples includes those from crime scenes, from suspects, from limited volunteers, from volunteers providing samples for unlimited purposes, from serious offenders, from missing persons and from unknown deceased persons. This legislation will also give the minister broader powers to enter into agreements with other jurisdictions and with CrimTrac for the sharing of the DNA data.

According to a June 2001 paper prepared by Jonathan D. Mobbs for the Australian Institute of Criminology entitled *CrimTrac — Technology and Detection*:

> CrimTrac is a national initiative arising from commitments given by the federal government during its 1998 election campaign to provide $50 million to allow police services across Australia to share policing information more effectively.

This process has been going on for some time, and I commend the initiative of the federal government back in 1998 in having the vision to bring this to bear. Other provisions of this bill include authorising the disclosure of DNA information for the purposes of investigation of a complaint by the director of the Office of Police Integrity or by an interstate authority that would normally be able to access the information through its own jurisdiction's database.

Areas of concern about the legislation that should see some expression here today include whether or not disclosure authorisations to the Office of Police Integrity and interstate authorities have been drafted broadly enough. It is also important to bring into this debate the opinions of the Law Institute of Victoria, because its concerns include: the consideration of suspect samples and that they should not be able to be compared against unrelated offences; that the penalties for failing to comply with sample destruction requirements should be harsher; and that volunteer samples should only be placed on the NCIDD database for missing person identification.

I stress and underline that Victoria has been party to a considerable amount of delay in participating in this national initiative. I charge the state Labor governments with inordinately delaying their commitment to the national criminal investigation DNA database. I would like to bring to bear some of the history of the development of the relationships between the commonwealth and the states on this cross-jurisdictional initiative. It is interesting to reflect on comments made in a media release by the federal Minister for Justice and Customs in August 2000. I would like to read some of it into *Hansard*. The minister is quoted as saying:

> The amendments will reflect determined efforts by commonwealth, state and territory to create an effective … database system. They are based on model procedures developed through the Standing Committee of Attorneys-General which were the subject of nationwide consultation over the past year.

This media release is dated August 2000, and I am astounded that it has taken so long to get to this point.

It is also important to include comments made by the then federal Minister for Justice and Customs, Senator Ellison, in July 2006, in which he highlighted the fact that at last some progress had been made after a meeting in Melbourne to look at matters surrounding the operational aspects of the national interjurisdictional DNA-matching system. A press release states:

> To date only Queensland, the Northern Territory and Western Australia have been able to exchange DNA information on the national criminal investigation DNA database (NCIDD), due to various legislative difficulties.

I am sure this was a very polite way for him to describe what was probably obfuscation and other frustrating matters brought to bear by this government.

The Liberal Party supports this bill because it is firm in its resolve that the concept of providing wide powers for the taking and use of DNA samples and a national program to pool DNA sample information to fight crime, find missing persons and to identify deceased persons is invaluable. Just to provide a measure of comfort in relation to the very valuable contribution from Ms Pennicuik earlier — I share her concerns about privacy matters — there is one little anecdote I can bring to the house. It appeared in a June 2007 media release by the current Minister for Customs and Justice, Senator David Johnston. He commented that this matching system had brought about tremendous benefits in fighting crime. I quote:

> Recently a Northern Territory man who had a DNA sample taken from him in relation to a drink-driving offence pleaded guilty to a 1993 rape that he committed in Queensland, after his profile was matched through the national DNA database.

It is certainly a great comfort for those people concerned about privacy matters that we have this power available to our police investigations.

During the last election campaign the Liberal Party pledged to increase funding, both recurrent and capital, for DNA testing. The government, I feel, was therefore forced to make its own financial commitments to DNA testing, which have finally been reflected in the budget. I think this legislation is commendable. Even though it seems to have been a very protracted process, it has arrived at last, and I support it.

Mr TEE (Eastern Metropolitan) — The use of DNA matching is increasingly critical in helping to identify those who have committed crimes, and of course DNA matching can be critical in clearing those upon whom suspicion has unfairly and unjustly fallen. Just as importantly, DNA matching helps in cases where DNA can identify missing people, deceased people and victims of disasters. While views of DNA may be coloured by the glamour of *CSI* and other television programs, the reality for families looking for loved ones is far different. Often DNA technology is critical for victims of crime living in fear until the perpetrator is caught. Only then can they feel safe, only then can there be closure, and only then can they get on with their lives. Nor can we underestimate the importance of this technology to exonerate those upon whom the shadow of suspicion has unfairly fallen.

While this bill ensures that the police and others can more effectively compare Victorian DNA samples with those held in other jurisdictions, it does so while retaining safety for the individuals concerned. This process has been in place for some time on a bilateral basis, but this bill will streamline that process, which in turn will save valuable time.

The bill follows an agreement between the commonwealth, state and territory attorneys-general. Mrs Kronberg indicated that she is concerned about the delay in bringing in this bill. I would like to assure Mrs Kronberg that her fears are unfounded — indeed they are without any foundation. The reality is that this process has been, as I have indicated, taking place for some years by way of bilateral arrangements. The process was updated to the streamlined process we have today by the state attorneys-general in May 2006. The next stage in the process was the requirement for commonwealth legislation. Late last year the commonwealth passed the necessary amending legislation, the Crimes Act Amendment (Forensic Procedures) Act (No. 1) 2006. Finally, once those two steps had been taken, the Victorian legislation was drafted. As I have indicated, there is no need for Mrs Kronberg to be concerned about any undue delay on the part of Victoria.

As I said, the bill streamlines the process. It provides the Attorney-General with the power to enter into agreements with other jurisdictions. These agreements allow for the exchange of DNA information. Once these agreements are in place, there is automatic access to the DNA samples from participating jurisdictions. Thus far, in addition to the commonwealth legislation, New South Wales and South Australia have all passed legislation to access the national system.

This is another example of how effective collaboration between the states and territories has worked effectively to deliver important reforms. The bill illustrates the absolute folly of the Murray-Darling approach, where the commonwealth has a 'take it or leave it' approach to state and territory reforms. It is an approach which has thus far delivered nothing. Perhaps Mrs Kronberg might want to look at this as a model for reform rather than being critical of the delays which she has unfairly sought to identify. I would again only hope the commonwealth would in future use models such as this, rather than flailing about with its current failed water strategy.

As has been indicated, the bill protects the privacy of those who have provided DNA information. The database does not contain any information that would identify the person, such as their name. It is only if a match is made that the relevant jurisdictions provide identifying information.

I commend the government for demonstrating the benefits of cooperative federalism. I commend the government for ensuring that this work, which is at the cutting edge of technology, can proceed effectively. Finally, I commend the government for retaining the protection of privacy of those whose DNA is contained on the database. I commend the bill.

Mr DALLA-RIVA (Eastern Metropolitan) — I rise to join in the debate on the Crimes Amendment (DNA Database) Bill 2007 and equally, along with my other colleagues and those opposite, have a position of supporting the bill. It is a common-sense bill resulting from a range of longstanding processes, which have been outlined.

Before I get to the principal components of the bill and the reasons for its establishment and why it is before the house today, I go back to the Victorian parliamentary Law Reform Committee's report *Forensic Sampling and DNA Databases in Criminal Investigations*. It is a long-winded report of over 500 pages. It was originally

commenced in the 54th Parliament; the reference was given from this chamber on 21 November 2001. At that stage the reference was that:

> … the Law Reform Committee be required to inquire into, consider and report on the following:
>
> > The collection, use and effectiveness of forensic sampling and the use of DNA databases in criminal investigations, with particular emphasis on identifying areas and procedures which would more effectively utilise forensic sampling and improve investigation and detection of crime.

During the period the committee was conducting its investigation an election was held. The reference was reinstated by Order in Council on 17 April 2003, with the report being tabled in the other place on 31 March 2004. There were 64 recommendations, and a series of those recommendations relate to the bill before the house today. That history of the investigation shows that the wheel grinds on and eventually turns to where it should be.

For those in the chamber who referred to one or two particular individuals or groups that made certain assertions about DNA sampling, I put on the record that 29 submissions were given and 42 witnesses gave evidence in Victoria at a series of public hearings. The 54th Parliament, of which I was not a part, undertook a series of tours around the world to examine the issue of DNA. That was important in terms of the understanding of this very complex issue.

It is a complex issue, but I refer to another forensic tool which was a complex issue back in the 1800s — that was called fingerprinting. It seems we have the same hysteria as was apparent at that time — and that is set out in the committee's document — about the rights of offenders and making sure that everything is aboveboard in the processes. It is an investigative tool which is useful in investigations, but it is not the panacea of all.

An interesting point — and I think it was raised by the Greens — is the amount of abuse that could occur. Just for the record, the chance of matching a DNA sample is 1 in 37 million. The reality is that unless there is somebody else who has identical DNA to you — that 1 person in 37 million — you have a good chance. As with fingerprinting, for which we have good accountability procedures in place, we have appropriate processes in place for the collection of DNA.

The fact is that there was a significant number of submissions. Ms Pennicuik seemed to refer to the submission from the Law Institute of Victoria as being the only evidence with any credibility. That is a bit far fetched given that what we heard from witnesses with substantial expertise on the issue of DNA enabled us to draw our conclusions.

It was interesting to note that during the debate the issue was raised of the database use of suspects' profiles. Given that we are talking about databases, at page 252 — and I will read this in its entirety because it may provide some clarity to some members in this place who have some concerns, I think wrongly — the report states:

> The committee has considered proposals for the indefinite retention and unrestricted use of a suspect's profile on the database, whether or not a finding of guilt is entered in relation to the investigation, as well as for a more restrictive use of a suspect's sample prior to the conclusion of the investigation for which the DNA profile was obtained. The committee has concluded —

and this was a bipartisan committee —

> that the current provisions effectively recognise the desirability of making forensic use of the DNA evidence available from the investigation while also providing safeguards against the retention and use of profiles belonging to persons who have been eliminated from the investigation or who have been acquitted of the charges laid. The committee therefore recommends no change to the current Victorian provisions.

The current Victorian provisions were established from the original principal legislation that was established in, I think, 2002. I may be wrong; if it was not the original legislation, it was from around that period.

I refer to part F of the report headed 'Data sharing and future directions in forensic sampling'. The committee examined firstly the provisions governing data sharing on the national DNA database. The report indicates at page 449, and I will again read from it, referencing it back to the bill before the house:

> Under the national data-sharing arrangements, primary responsibility for the data uploaded rests with the originating jurisdiction —

in other words and in our case, Victoria —

> while the coordinating body, CrimTrac, is responsible for ensuring that data is shared in accordance with the laws of each of the participating jurisdictions. The reliability of the national database therefore directly depends on the integrity of the data uploaded by participating jurisdictions, such as Victoria.

The report then goes on to refer to some of the concerns about data being collected from one jurisdiction then being transferred to another jurisdiction and that it may not be adequate, given the corresponding law.

While the Victorian legislation recognised a DNA database — and I quote from the report — 'that is kept under a corresponding law of the participating jurisdiction', that being under section 464ZGL, it was quite clear from the committee's work that there needed to be some more work to ensure that was a better system.

A corresponding law was outlined in the report, which then said:

> The legislation does not provide guidance on what constitutes a law which 'substantially corresponds' to the provisions in the Victorian Crimes Act. The model bill provisions were based on the assumption that all Australian jurisdictions would enact uniform forensic procedures provisions.

In fact we further examined that particular issue as part of that investigation into the database. That resulted in recommendation 4.2 headed 'Audit of DNA database':

> That Victoria, through its representation on CrimTrac, work towards the introduction of a regular, independent audit of the operation of the national DNA database.

Page 463 of the report talks about what I think is the basis of this legislation, phased participation in the national data-sharing arrangements. At page 464 the committee made recommendation 14.3, headed 'A phased process for entering national DNA database':

> (i) That Victoria's participation in the national DNA database be phased in, to ensure that consistent or agreed minimum standards apply to the data entered and retained on the database; and
>
> (ii) that in the first stage, only profiles which, at the time of collection, were provided for indefinite and unlimited use be made available to law enforcement agencies in other jurisdictions under data-sharing arrangements.

Hence the legislation we have before the chamber — and I am very pleased to see it. When you do committee work it is often frustrating if it never sees the light of day again. I am pleased that there has been a move forward, particularly in relation to the sharing of data across jurisdictions. I am very pleased to support the bill before the house.

Motion agreed to.

Read second time.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Industry and State Development) — By leave, I move:

> That the bill be now read a third time.

In so doing, I would like to thank all the members who spoke for their contributions to the debate and their support for this important legislation.

Motion agreed to.

Read third time.

Sitting suspended 12.52 p.m. until 2.02 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Planning: Melbourne 2030

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Noting that the latest census figures indicate huge population growth occurring in suburbs such as Cranbourne, Pakenham, South Morang and Melton but show no growth in middle suburbs like Ivanhoe, Bentleigh and Moonee Ponds, I ask: do the census figures not prove that Melbourne 2030 is an abysmal failure?

Hon. J. M. MADDEN (Minister for Planning) — It is ironic that the member opposite should ask a question of this nature when it is obvious that we have a plan and the opposition does not. The worst thing a government can do is not have a plan. We have a plan in place. The important thing about this plan is that it is multifaceted. Whilst some would like to focus on one issue or another, what they do not fully wish to acknowledge is that a multifaceted approach allows for diversity, choice and flexibility when it comes to the way people will be housed in the future in Melbourne and the surrounding regions.

It is important to recognise that the significant components of Melbourne 2030 include the growth area authorities, and we are seeing some of the best capital city land management practices in Australia. As well as that, we are seeing the green wedges protected and a focus on activity centres. We know that the alternative is to have no plan and just a call for sprawl. The alternative is to have no feasible plan and no logic.

We will continue to address the future needs across Victoria and Melbourne and to invest in those needs. We stand in significant contrast to those who would prefer not to plan or have a policy or alternatives by having a logic that is supported broadly across the professional fields and the community as an alternative to letting development occur anywhere, in any form and in any shape, which is what we saw during the

seven dark, cold years the Kennett government was in power.

Supplementary question

Mr GUY (Northern Metropolitan) — Noting that Melbourne 2030 is failing and Melburnians are clearly ignoring it and its goals, I ask: does the minister still stand by his claims that the general thrust of the document *Melbourne 2030* is not for changing?

Hon. J. M. MADDEN (Minister for Planning) — I can understand why the opposition might want to condemn a plan, particularly if it does not have a plan. We have a plan and a strategy. We are having an audit and a review. It is worth appreciating that if, as Mr Guy would like to suggest, there is no other alternative to a call for sprawl — if Mr Guy and the opposition are proposing that we dismantle Melbourne 2030 and let the market do exactly what it wants, where it wants in any shape or form — then we would see intensive development allowed on market principles alone in every area across Melbourne.

What I am saying to Mr Guy is that if he is proposing to dismantle Melbourne 2030 and allow somewhere in the order of 1 million people — who will want to come to Melbourne whether we like it or not, because it is such a great place to live, work and raise a family — to just move into Melbourne in any shape or form, without any controls, then I suggest that not only does the opposition have no policy but that there is no alternative to what we are proposing, which makes and will continue to make Melbourne and Victoria great places to live, work and raise a family.

Disability services: My Future My Choice program

Mr THORNLEY (Southern Metropolitan) — My question is to the Minister for Community Services. Could the minister update the house on the progress of the collaborative My Future My Choice initiative, the strategy to reduce the number of young people living inappropriately in residential aged care?

Mr JENNINGS (Minister for Community Services) — I thank Mr Thornley for his question and his concern about the wellbeing of younger people who may be inappropriately housed within nursing homes and should more appropriately be housed in supportive accommodation settings that are flexible and designed specifically to meet their individual needs.

I am very pleased to say that this is an area of collaboration. Not for the first time I am reporting to the house that this is a matter on which there is actually a level of agreement between the state and the commonwealth. It is an agreed program, and $60 million has been allocated on a fifty-fifty basis between the Commonwealth of Australia and the Victorian government to pursue these options. The My Future My Choice program that runs within Victoria is designed to try to do an appropriate estimation of the care needs of younger people in nursing homes to be able to prepare a case management and care plan that accounts for their needs going forward and to find the appropriate form of accommodation to support that.

I have great pleasure in saying that there has been a great degree of work undertaken to make that happen. We have undertaken interviews of 135 people under the age of 50 who are currently living in nursing home accommodation across Victoria. We have developed a detailed planning framework for them to work through their individual circumstances to find what they want in alternative accommodation. A number of projects have been announced to commence to demonstrate to the Victorian community and beyond that we are capable of developing new forms of accommodation. In the not-too-distant past I announced the Villa Maria proposal in Alphington. That will be a fantastic facility, creating opportunities for 10 people to live in a great, purpose-built facility the construction of which is currently under way.

Recently I went to a very unusual setting to announce an important contribution to the care planning for these younger people and their loved ones. It was Macquarie Bank. I cannot remember the floor, but it was way up there in the building and it was way up there in the spirit in which people came together to support this great collaborative effort. I thank the Summer Foundation for creating the opportunity for us to come together. The people at the foundation had done the detailed work that brings together the case studies of a number of outstanding individuals in our community who have overcome the degree of disability and the discomfort, despair and distress that has been caused to them in their lives, and who have found very, very satisfying living arrangements that are appropriately supported. They were brave enough to share their experience with others so that people who will in the future be exposed to the DVD will have a greater understanding of the range of services that may be available to them.

It is a fantastic initiative of Di Winkler from the Summer Foundation and the people who have supported her. I am pleased to say that it was at the Macquarie Bank, which is perhaps not very often known for its benevolent work. On the occasion I thanked Simon McKeon for having us and for hosting

the event, because it gave great support to people with disabilities and their carers and loved ones and provided a great supportive network to take this work further.

In particular I congratulate John and Louise for sharing their stories on the DVD. John had an aneurism just before he was about to marry Louise, but their love was unswerving and remained intact and they proceeded to get married and now live together with the appropriate people providing them with support. Mark, who has an acquired brain injury because of a motorcycle accident, actually lives on his own with a degree of support that comes in for him on a regular basis. He lives with his fox terrier and is very, very fiercely independent and enjoys a high quality of life in his neighbourhood. Anne and Gayle, who both similarly had an acquired brain injury as far back as 20 years ago, until recently lived in accommodation which was most unsatisfactory for them. They now live in shared accommodation settings. Fiercely independent members of this Victorian community — —

The PRESIDENT — Order! I am sorry to interrupt the minister. I have to tell Ms Lovell that I am not sure it is particularly good practice to be flossing in the chamber.

Honourable members interjecting.

The PRESIDENT — Order! People might think it is funny; I personally do not. Personal hygiene is Ms Lovell's own business, but it should not be on public display.

Mr JENNINGS — I note the President's apology for intervening and interrupting my flow and thank him very much for that. It is a demonstration of the rich fabric of the Victorian community, but perhaps there are some aspects of it that we do not need to share in the public domain.

The take-home message — because I was about to conclude — is to reiterate that people with disabilities should participate to the highest degree in community life, be uninhibited in the way they relate to other members of the community and have a degree of confidence that many of us take for granted.

Hazardous waste: Tullamarine

Ms HARTLAND (Western Metropolitan) — My question is for Justin Madden, the Minister for Planning. The minister has called in an application for a permit to store toxic waste at the Tullamarine toxic dump, so the decision will be made by the minister rather than by the Victorian Civil and Administrative Tribunal. Will the minister guarantee all objectors an open and transparent process, including the right to a hearing to present both verbal and written submissions, the right to call experts and the right to cross-examine any experts whose opinion will be relied upon by the planning minister in making his decision?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Hartland's interest in this matter. Obviously it is a matter of serious consideration. Recently under the planning minister's authority I have called in the application to have a panel hearing established for, I understand, two issues in relation to the Tullamarine landfill site. I understand the first of those relates to a works permit for an extension of the practices there and the other relates to a planning permit application for a particular installation or method of technology of installing — I am trying to find the technical word, but I suppose the basin in which — —

Ms Hartland — The biocell.

Hon. J. M. MADDEN — Yes, the biocell. I thank Ms Hartland very much. That is the word I was looking for. It is in relation to the way that the operation of the Tullamarine landfill site will or will not take place. As is the case with any planning process where a panel is established, I would expect that it would be a full and thorough process, that those who support or do not support those propositions would be able to make their case before that panel, that people with the relevant expertise in whatever field it might be would also make submissions to that panel, that the panel would undertake a full and thorough consideration of all those matters and hand down a report that would allow me to consider and make determinations in relation to those recommendations and that I would also seek advice from the department in relation to those recommendations.

I am looking forward to a full and thorough panel process in relation to this. I am also looking forward to being able to make a determination which is appropriate on the basis of whatever recommendations the panel makes in the report provided to me. I look forward to making that determination at the earliest possible time.

Supplementary question

Ms HARTLAND (Western Metropolitan) — The Terminate Tulla Toxic Dump Action Group has invited me to a rally on the steps of Parliament House on 25 July. I wonder whether the Minister for Planning will also be able to attend and speak to the residents.

Hon. J. M. MADDEN (Minister for Planning) — I welcome any invitation to any event related to my

responsibilities as the Minister for Planning or as a local member. I am always grateful to receive invitations. I am happy to consider that invitation and I thank the member for it.

Honourable members interjecting.

Hon. J. M. MADDEN — It is good to know that opposition members realise how busy I can be in this portfolio. They are making suggestions as to how I might fill that schedule. However, apart from whatever opportunity I might have to attend that event, I look forward to a full and thorough process in relation to whatever extends from the panel process. I look forward to hearing from any of the representatives who attend the event Ms Hartland has invited me to. I would encourage those who are passionate about this issue, as I always encourage anybody who is passionate about planning matters to make their concerns heard. I am happy to have those concerns relayed to me. I would encourage those people to also express those concerns to any panel that is established along these lines in relation to this project. I welcome that invitation, and I will give it full consideration.

NAIDOC Week: 50th anniversary

Mr EIDEH (Western Metropolitan) — My question is to the Minister for Aboriginal Affairs. Could the minister inform the house how the state government acknowledged the NAIDOC Week 50th anniversary last week?

Mr JENNINGS (Minister for Aboriginal Affairs) — I thank Mr Eideh for his question, for his concern about the wellbeing of Aboriginal people and for providing me with the opportunity to reflect briefly on the highlights of last week's 50th celebration of NAIDOC Week. NAIDOC stands for the National Aboriginal and Islander Day Observance Committee. Many people are perplexed about that, but it is still relevant for us to observe the capacities, talents and attributes of Aboriginal people and Torres Strait Islanders right across the nation and for us to deal with the ongoing disadvantage and distress confronted by Aboriginal people. It is always a very dynamic week full of great community events. This year a number of those community events centred around the Parliament of Victoria.

I am very pleased to say that during the middle of last week we had a parliamentary reception. Significant stakeholders within the Aboriginal community came from far and wide to participate in that reception, to celebrate the great attributes of Aboriginal people and to support community development and growth within the Aboriginal community. The Parliament also saw the Aboriginal justice partnership awards. This is a great collaborative effort between Aboriginal people, officers of the police and courts and community agencies that work hand in glove throughout the course of the year. We celebrated great achievement in the justice area at that event held in the Parliament.

A number of other great community events were very evident and brought people from all around the country together. They included young people coming together at the Aboriginal Advancement League under the auspices of the Victorian Indigenous Youth Advisory Committee. This is a great group of people who provide advice to me and other members of the community about the hopes and aspirations of younger people. The league was also the venue for the elders luncheon. This is a very big event that brings together Aboriginal elders from all over the state of Victoria to enjoy one another's company, to share stories, to share their hopes and dreams for their grandchildren and their great-grandchildren and to enjoy a great event, and that was certainly the case last week.

A very important piece of work has been commissioned by the Victorian Aboriginal Community Controlled Health Organisation. This brought together evidence of great achievement in health throughout Victoria. Great partnerships have been formed through the Victorian Aboriginal Community Controlled Health Organisation and other community health bodies in Victoria. They are providing state-of-the-art, very innovative delivery of health and welfare programs to Aboriginal people in the state of Victoria. This created in a very timely way a reminder to all those in the community of the great capacities and talents of those organisations in rising up and meeting the health care needs of Aboriginal people.

There were very high profile things such as the NAIDOC march. I am very pleased to say that in traversing from the Victorian Aboriginal Health Service in Fitzroy to Federation Square it stopped for a moment at the steps of Parliament House. I am also very pleased to say that no effigies of any Victorian politician were burnt. We were not the focus of dismay or concern within the Aboriginal communities. However, I cannot say that about all jurisdictions, because there is clearly some concern about where some jurisdictions across the nation are going, most notably the commonwealth. The march itself was very positive and upbeat and was not driven by despair or distress. People were very focused on getting outcomes now and into the future.

We took the opportunity to celebrate great elders, including the formal patron and matron of NAIDOC, Dr Alf Bamblett and Aunty Merle Jackamos. They are

significant elders in the community. Young people who are achieving great things were also marked. The young Aboriginal achiever of the year awards were presented in the Parliament last week to Jamie McConnachie and Dorothy Bamblett. These are two outstanding young women who are showing great leadership in their communities. Dorothy is raising two young children while studying full time. Her aspiration is to be the principal of an Aboriginal school. She is a great community member showing great leadership capacity. We took the opportunity to celebrate her commitment to her community and the commitment of many other people. The 50th anniversary of NAIDOC Week was celebrated with enthusiasm and style in the state of Victoria.

Planning: Melbourne 2030

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. With the latest census figures predicting probable steady population growth for Melbourne until 2030, I ask: does the minister still stand by his Melbourne 2030 growth prediction, which is for a population slowdown and which is inconsistent with recent Australian Bureau of Statistics data?

Hon. J. M. MADDEN (Minister for Planning) — It is fairly obvious that the proposition being put to me about Melbourne 2030 in relation to any of the questions that come to me is that the opposition is sceptical about it. They might even be, dare I say it, cynical about these matters. However, we know that our proposition is to manage growth. We accept that growth is a good thing. We accept not only that growth is a good thing but that we have to manage growth. What does that mean the alternate proposition is? The alternate proposition is one of two things. One is — I suspect this is coming from the opposition — to let the market determine where any housing or any development can occur right across metropolitan Melbourne. That is probably the proposition.

Mr D. Davis — That's ridiculous.

Hon. J. M. MADDEN — David Davis says that is ridiculous. What is the other proposition for managing growth? The other proposition coming from the opposition for managing growth is to say no to growth. We know that the opposition says no to growth. What does that mean for jobs, for the economy, for prosperity, for business, for housing choice and for housing diversity? A conservative approach is not the way to go when it comes to managing growth. We now know where the opposition is when it comes to managing growth. Its answer to managing growth is to say no. Our alternative and the only alternative to its saying no to growth is to manage growth. We will continue to manage growth to make sure that we continue to make Melbourne and Victoria great places to live, work and raise a family.

Supplementary question

Mr GUY (Northern Metropolitan) — Noting that Melbourne's population could grow to more than 5 million people by 2030, almost half a million more than the maximum land release predictions in *Melbourne 2030*, I ask: with no additional land release, does the minister expect to house these additional half-a-million people in new high-rise apartments in existing suburbs or does he plan to stack them in like sardines?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's comparison with sardines. I welcome his metaphor. We know Mr Guy is a little fish in a very big pond. If you are out of your depth and swimming in a very big ocean and the seas are very choppy, there are a lot of sharks out there. I could go on with the metaphors for a long time, but I will not. I will not allow you, President, to suffer.

As I mentioned yesterday, we are managing land supply supported by the Housing Industry Association report. At the function Mr Guy attended he heard the Housing Industry Association economist say that not only do we have the best capital city land supplies on the eastern seaboard but that land cost as a percentage of the overall price of housing sits at the lowest at 40 per cent. What that says is that we are managing land supply and assisting affordability where we can. Not only that, if Mr Guy understood Melbourne 2030, if he read the document and looked at the census figures, he would appreciate that our allowance for land supply on the outer fringe allows for 25 years supply of broadacre residential land available for new housing across Melbourne's growth areas.

We have the Growth Areas Authority. We are allowing for the growth to occur and providing housing choice. As I said before, Mr Guy has a myopic view of the world. The alternative is to say no to growth while at the same time contradicting a no-to-growth approach by saying everybody wants a quarter-acre block. A quarter-acre block is very desirable, and we are happy to provide the land supply for quarter-acre blocks, but if Mr Guy looked at the census figures carefully and did the analysis, which he has failed to do, he would appreciate that with smaller households, smaller numbers in each household, an ageing population and people marrying later and so on and the effect that has

on demand — if he did his analysis and took in the big picture rather than taking his myopic view of the world — he would understand that planning is far more complex than providing quarter-acre blocks spread across all of Victoria as the only choice. It might be the choice of Mr Guy and of the opposition and its respective vested interests, but can I say that we as a government are committed to housing choice, managing growth and building on prosperity to make Melbourne and Victoria even better places to live, work and raise a family.

Planning: online services

Mr PAKULA (Western Metropolitan) — The Minister for Planning will be happy to know that I have a sensible question for him. Will the minister update the house on how the Bracks government is getting on with the job of making the planning system simpler, easier and less time-consuming for the planning community and all Victorians?

Hon. J. M. MADDEN (Minister for Planning) — It is great to get a good question in relation to planning from someone who knows his stuff. While the opposition spokesman may be a small fish in a big pond, Mr Pakula is a very big fish in a big pond.

I am pleased to announce to the house today that Victoria's planning system has become simpler and easier to use with the launch of two new online planning services. With the click of a button interactive planning maps and a new planning property report service are now available online. For the first time the public can access planning maps, planning controls and planning reports via the internet by doing a search using, I understand, only a property address. Members of the public and planning professionals can now access these important and user-friendly planning tools from the comfort of their own home or office. This is a one-stop planning shop. It is an example of how the Bracks Labor government is committed to cutting red tape in local planning and making sure the planning system is simpler, easier and less time-consuming for the planning community and all Victorians.

A two-page planning property report can now be generated free of charge by simply going to the Department of Sustainability and Environment (DSE) website and clicking on 'Planning property report'. After entering an address, a report will be produced that contains a lot/plan number, council name and property number, *Melway* reference, zoning map, link to the planning zone applicable to the property, overlay map and link to the planning overlays applicable to the property. It shows how we are making the system more user friendly. Interactive planning maps are also now available by going to the DSE website. For the first time we are combining planning map data with VicMap information to enable interactive searching of planning zones and overlays by address, region and suburb. We are making planning, as I said, user friendly by developing more sustainable business practices and helping to reduce the planning community's reliance on paper maps.

These new exciting tools will assist the entire planning community. I am looking forward in the next 12 months to making further announcements in relation to how we can assist planning applications to go online. Last year the planning industry and stakeholders told us they wanted access to mapping tools online with the option of searching for planning scheme information based on property addresses. I am pleased today we are delivering these online services. It shows that we are committed to continuous improvement when it comes to the planning system. As well as assisting people to navigate the complexity, particularly little fish, through this, I look forward to making further announcements about how we can assist the planning community and the broader community and make Victoria a great place to live, work and raise a family.

Agent-General: motor vehicle

Mr D. DAVIS (Southern Metropolitan) — My question is to the Minister for Industry and State Development. I refer to the purchase at diplomatic rates by Victoria's Agent-General, David Buckingham, of a luxurious Audi A8 for a total of £52 000, or $126 000. Does the minister believe the purchase of a luxury German car by the Agent-General sends the right signal about Victoria's automotive industry?

Hon. T. C. THEOPHANOUS (Minister for Industry and State Development) — I thank the member for his question. I might say the member provides me with an opportunity through his question to reflect on a recent overseas trip I took which was not part of an official trip but was simply part of my holiday period. Despite the fact that I was on my holidays I managed to see several ministers in Greece and to talk to them about Victoria and the opportunities here, following the recent trip of the commerce minister.

I also went to Cyprus, where Australia's High Commissioner for Cyprus produced a very nice three-day program for me. I met the major contenders in the election campaign for the presidency, I met my ministerial counterparts and I even visited a desalination plant to see how it was operating. You

know what, President: the High Commissioner for Cyprus went with me on these visits! As I said, I was officially on holidays, but I was happy to do this work. Guess what the High Commissioner had! He had a driver. His name was Stavros, and he was a very nice man who knew how to drive around Cyprus. Guess what car he had! He had a Mercedes-Benz. He had a very nice Mercedes, and I was very happy to sit in the back with the High Commissioner while driving around. Do you know why he had a Mercedes-Benz? He had a Mercedes-Benz because the federal government in all its overseas postings makes sure that our diplomatic personnel go around and are seen by the local community in vehicles of an appropriate standard.

If you were the Australian ambassador in Greece or the Australian High Commissioner in London or had any one of our overseas postings, imagine turning up in a four-cylinder Ford Focus. It is such nonsense to suggest that our overseas representatives should do anything other than represent this country and this state in a fashion that shows that we are serious players in the international community, both in terms of our engagement with our community and in terms of our engagement with trade in those communities.

I reiterate that the London office is one of the most successful offices in our overseas contingent. It has been able to generate a significant amount of activity for us. It is an office which has to operate in a way which showcases Victoria. If the member opposite wants to suggest that the policy of the opposition is to shut the London office and shut the overseas offices, he should at least be honest enough to get up and say that is what it is going to do. If the alternative position is that the Liberals are not going to resource them properly, then they should get up and say, 'We are not going to resource them'. Our position is that they will be resourced properly, and we expect them to deliver for the people of Victoria.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — This German motor car, the Audi A8, would cost Victorians over $200 000 to purchase off the shelf locally. The FOI documents show it has a burgundy red pearl effect and beige comfort seats. This is a luxury vehicle by any stretch. I therefore ask the minister whether he will detail what steps Victoria's Agent-General in London has taken to promote Victoria's automotive manufacturing industry and how the minister believes the purchase of the opulent Audi A8 for the Agent-General will assist in increasing automotive exports.

Hon. T. C. THEOPHANOUS (Minister for Industry and State Development) — David Davis is such a small-minded thinker. Here is an overseas posting — I am happy to give some statistics about how the overseas posts work, because — —

Mr D. Davis — The automotive industry, please.

Hon. T. C. THEOPHANOUS — We are happy to talk about it. I mentioned yesterday the figure of $8.7 billion in investment arising out of our overseas offices. That is 18 000 jobs that have been created as a result of their activities. I think those 18 000 people employed in Victoria as a result of the activities of those overseas offices would not be getting up and making the sorts of comments that David Davis continues to make.

Mr D. Davis — You have never produced the evidence, and you know that.

The PRESIDENT — Order! Mr Davis!

Hon. T. C. THEOPHANOUS — Let me say that since January 2000 investment totalling $680 million has been facilitated from the UK, France, Spain, Belgium, the Netherlands and Ireland — all part of the operations of the UK office. It has delivered a total of 2141 jobs.

Mr D. Davis — Almost all of that would have happened without Mr Buckingham's input.

Hon. T. C. THEOPHANOUS — During the same period approximately $338 million in exports has been generated to these markets. While David Davis wants to come in here and bag the Agent-General for this state, while he wants to — —

Mr D. Davis — And your behaviour and his excess.

The PRESIDENT — Order! Mr Davis is warned!

Hon. T. C. THEOPHANOUS — While he wants to bag the work of these overseas offices, let me make it clear that these are the statistics: $338 million in exports and $680 million in investment arising out of the activities of that particular office. If he wants to be petty and wants to continue along this kind of track, as David Davis does, then he ought to at least be prepared to get up and say his side will not have a properly resourced Agent-General in London, because it is prepared to forgo — —

Mr D. Davis interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Mr Davis has had enough warnings. His constant interjections are disruptive to the house, in my opinion. Under standing order 13.2 he is suspended from the chamber for 30 minutes.

Mr D. Davis withdrew from chamber.

Questions resumed.

Hon. T. C. THEOPHANOUS (Minister for Industry and State Development) — I am in the process of concluding my remarks, but let me just say that these overseas offices need to be resourced appropriately. They are accessed by all members of Parliament who visit overseas, including members of the opposition. I doubt that if David Davis were to turn up in London — or the Leader of the Opposition or anyone else from the opposition for that matter — he would decline being taken to an appointment he wanted to go to in the company of the Agent-General in an appropriate fashion, which is what would be the case if he turned up. I doubt that members of the opposition would decline that offer. I think the contrast is very important. We support the work of the Agent-General, and we want to resource him in an appropriate way because he is delivering jobs and investment for Victoria.

Education: federal-state cooperation

Mr SCHEFFER (Eastern Victoria) — My question is directed to the Minister for Education. We have often heard in this house of the collaborative and cooperative approach the Bracks government takes in dealing with other levels of government, and specifically the federal government. Can the minister outline to the house any recent developments in this respect and any measures that have been made necessary in order to progress the best interests of education for Victorian students?

Mr LENDERS (Minister for Education) — I thank Mr Scheffer for his question, his interest in education and his interest in collaborative partnerships and federalism. This federation works well when state governments and the federal government work together, and Victoria has been a leader in working with other jurisdictions.

Mr Drum — So you say.

Mr LENDERS — Mr Drum just needs to look at the history of this state, at the history of how we as Victorian governments, whether Labor, Liberal or Country Party, back in those very dark days in the 1940s, have actually worked with federal governments, whoever they may have been.

We can do that in a lot of ways. It is interesting as a minister to find out what is happening in Canberra. When you open the education supplement in the *Australian* newspaper in the morning or listen to ABC radio or sometimes see it on the internet you find out what the federal government is doing, and sometimes it is quite interesting. For example, in Victoria as part of the last two enterprise bargaining agreements we have had a thing called performance pay for teachers under which leading teachers are paid for performing their work. Then we read in the paper that the federal minister has suddenly decided, 'Performance pay for teachers! That's a radical new idea, let's introduce it across the country'.

In response to Mr Scheffer's question about collaborative federal relations, Victoria had principal autonomy as a bipartisan initiative under the Kennett government. The Bracks government has had principal autonomy as an emerging development, enhanced by the blueprint that Lynne Kosky, the Minister for Public Transport in the other place, put in place when she was education minister. Then you open a newspaper and find that the federal minister, whom I will not name, has suddenly said 'Principal autonomy is a radical new initiative. We have just thought about it. All the states and territories should introduce it'. Collaborative federalism gets a tad difficult when you have to read about it in the newspaper. Quite often you read about things in a newspaper that are happening in your own state. I have been state education minister for eight months and I have yet to see the federal minister set foot in any of Victoria's 1594 government schools or any of its 702 non-government schools. If she has, she has been hiding her light under a bushel.

Collaborative federalism is important. As we go forward on the journey of improving opportunities for young Victorians to get a better education, collaborative federalism will make it a lot easier. It will make it easier for me as state education minister and for my colleague Jacinta Allan, the Minister for Skills, Education Services and Employment in the other place, to do our jobs as Victorian ministers if we know what the federal government is doing. I have extended numerous invitations to Ms Bishop, the federal Minister for Education, Science and Training, Mr Robb, the other federal education minister or their parliamentary secretary, the runner, who has come down to Victoria, to visit our schools and see what is going on. Alas and alack!

Mrs Peulich — How about collaborating with members of the opposition.

Mr LENDERS — Just for the sake of responding to the interjection by Mrs Peulich, I was at a school in Bayswater just the other day with Mrs Heidi Victoria, the member for Bayswater in the other place and a member of the opposition, in the presence of Pat Farmer, the federal parliamentary secretary — —

An honourable member — The best bloke in the world.

Mr LENDERS — And Mr Leane was there. The best bloke in the world is Mr Leane, not Pat Farmer! We were at the opening of a school, so we collaborate with the opposition. We collaborate with anyone who will collaborate with us.

My point is that if we are to collaborate we need information. Sadly the federal minister will not collaborate, so I need to inform the house today that to get information I have had to lodge 14 freedom of information requests with the federal minister to seek information on basic material so that we can have a collaborative federalist approach. I hope that Ms Bishop and her parliamentary secretary will actually respond to the FOI requests that I have put in, whether it be on geography, literacy and numeracy, outcomes-based education, performance pay for teachers, principal autonomy, rewards for teaching literacy and numeracy or even summer schools for teachers.

I hope the FOI on summer schools for teachers does not show that Mr Graeme Stoney, a former member for Central Highlands Province, after his summer school for Liberal members of Parliament on his farm at Mansfield, is trading secrets with the federal minister. I hope I do not find that out! What I do hope I find out is what makes the federal minister tick. If I know that I will be able to do my job far more effectively, making Victoria an even better place to live, work, learn and raise a family.

Schools: maintenance

Mr P. DAVIS (Eastern Victoria) — I am delighted to follow the Minister for Education and suggest that he look at the Ministerial Council on Education, Employment, Training and Youth Affairs website for the information he is seeking under FOI, as that is the standard response to questions on notice that he gives to me.

In respect of the matter I wish to raise today with the Minister for Education, I refer the minister to the government's budget re-announcement on 25 June of a $16 million maintenance fund to address the maintenance backlog of $268 million. I ask: given that the average maintenance funding required for each of the 1594 government schools is $170 000 and the average funding they will receive from the government's maintenance fund is only $10 000, when will the minister commit to eradicating the maintenance backlog?

Mr LENDERS (Minister for Education) — I have waited all week for Mr Davis to ask a question on education. I am delighted that he has asked a question. If we are talking about maintenance in Victorian schools, leaving aside the 300 schools that were flogged off in the seven years before we came into government — —

Mr Viney — Who sold them?

Mr LENDERS — Mr Viney asked who sold them. Baillieu Knight Frank had a big part in selling those schools. Leaving aside the 300 schools that were sold, for the 1594 government schools in this state today this government has made an annual commitment of $41 million. We are absolutely cognisant of what the Auditor-General recommended in his report. We read the Auditor-General's report, and we think he is a good man. He is a man who keeps governments accountable and offers us advice. Sometimes we do not like his advice, but he gave us advice on school maintenance. The Auditor-General's report on school maintenance is a beacon. It is the light on the hill in accounting terms.

The department has gone out to all 1594 schools and done a maintenance log. It has prioritised items from 1 to 200 according to their importance. In addition to the $41 million the government spends on maintenance — and I might add that the amount we spend on maintenance has gone up compared to what we inherited from the Kennett government, but we will leave that minor detail aside — at the start of the last financial year the Bracks government put an extra $50 million into school maintenance and at the end of the financial year put in an extra $10 million.

What we have seen is $101 million allocated to school maintenance this year. That is above and beyond what this state has ever had before in maintenance funding. This is in addition to the fact that we are rebuilding 131 schools in this financial year alone. The Leader of the Opposition asks what we are doing about maintenance. We are doing it. In this last batch of maintenance allocations alone, on the last Thursday of the financial year 724 government schools got an

electronic blip in their accounts which delivered $16 million for maintenance.

I had the privilege of going to Wendouree Primary School in Ballarat. Ms Pulford would know very well this school in the middle of Ballarat. It is a great government school. The basketball court at the school was revisited, and the tiles on the roof were revisited. If Mr Davis would like to go out to the west of Melbourne to a great girls school in Footscray, he would find that the toilet block was revisited.

Mr P. Davis interjected.

Mr LENDERS — If Mr Davis is suggesting that we go into the toilet block at a girls school, I suggest he check first with the school principal. What we did was put in place a new toilet block, so now an old school has a new toilet block. These are but two examples of the 724 government schools across the state that have received maintenance money.

There is always more to be done. That is the reason for our total revamp of government schools over the next 10 years. From the election of the Bracks government, we have made the commitment that every school in this state will be rebuilt or renovated, no matter where in the state the school is. There are no toenails in the Bracks government. We care as much about Manangatang as we do about Malvern — no matter how good Lloyd Street school is. We care about Mallacoota and Malvern; we care about the whole state.

We will continue on a school maintenance program, and we will do that so that every school in this state, every student in the state, will have a great chance in education. In the end, in a sense, it does not matter. If you have a good teacher with enthusiastic students, they could learn under a tree. But we believe good facilities are important to help students learn, because in the Bracks government's vision of Victoria for the 21st century we will have a great education system. We will do our bit by making the schools better. It is all a critical part of our plan to make Victoria an even better place to live, learn, work and raise a family.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — The minister's response brings to mind Johnny Appleseed. In response to the minister's general commentary about school maintenance and in the context of his admission that there is a lot more to be done, I refer to the following schools labouring along with serious maintenance issues. California Gully Primary School has a backlog of $290 000 in maintenance but under the government's announcement will receive only $1604. Kalianna Special School, which has a backlog of $260 000 in maintenance, will receive $982. Heywood and District Secondary College, which has a backlog of $564 000, will receive $4500. Wattle View Primary School, which has a backlog of $330 000, will receive no funding and nor will North Geelong Secondary College, which has a backlog of $1.8 million. Therefore I ask: when will these schools and the many others like them, which I do not have time to illuminate today, receive the actual funding needed to eradicate their serious maintenance backlog?

Mr LENDERS (Minister for Education) — In schools in Victoria today business managers are sitting at their desks. When the phone rings they ask who is calling, and it is a researcher from the Leader of the Opposition's office asking them questions about their schools. They get phone calls and questions like, 'What is wrong with your school?'. I am very disappointed for Mr Davis that that is all he found. I guess what it shows is that, one, schools in Victoria probably do not want to take a call from the Liberal Party because there might be an agent from Baillieu Knight Frank waiting to flog off the school when it is next in government, and two, schools in Victoria are confident that this government is investing in schools. While I say there is more to be done — and there is more to be done — we are investing in schools.

Mr Davis comes from the city of Sale, where the government has invested money in schools. He just needs to go down the railway line or down the road to see school after school into which this government is investing money, because we have a commitment to education. We will always be delighted to have a dialogue on how schools are going. Schools can actually ring their regional director. Under this government, schools can go to their local member of Parliament and know they will not get prosecuted like schools were under the Kennett government. Schools can actually be open and transparent and express a view in the Bracks government-led Victoria, which they could not do previously.

This year we extended the amount of maintenance money for schools from $41 million to $101 million, based on a process set up by the Auditor-General to address these issues. We will continue to invest in our schools in Victoria. But I know one thing for sure: if I were a principal of a school in Victoria and I looked through the seven years of the Kennett government, and I looked at the seven and half years of the Bracks government, I know the period of time in which I would rather be principal. It would be in a time when a government puts resources into schools, values education, does not close 300 schools but builds new

ones, puts in new teachers, puts in new resources and actually gives schools autonomy. That is the sort of school I would like to be in. We will continue to work, because education is our no. 1 priority, and it will continue to be. We will not rest until Victorian students have the best opportunities of any student that we know of.

Disability services: commonwealth state/territory agreement

Mr DRUM (Northern Victoria) — My question is to the Minister for Community Services, Gavin Jennings. Did he or did he not receive a letter of offer in April this year for dollar-for-dollar funding from the commonwealth government as part of the commonwealth state/territory disability agreement no. 4? If the minister did, what was his response to this generous offer?

Mr JENNINGS (Minister for Community Services) — I thank Mr Drum for his question. Hopefully he will give me the opportunity to answer that question, because it is not the first time that question has been asked of me this week. When I tried to answer the question previously, he continually interjected. With a bit of luck, I might be able to get the answer out for him.

Yes, I can confirm that the offer was made in writing. As I reported to the house earlier in the week, it was not an offer that was actually put to ministers when we met. In fact when we met in April in Brisbane, the offer was not put to me by the minister face to face.

Mrs Coote — Eye to eye?

Mr JENNINGS — It was not put in any interpersonal way by the minister in terms of creating a negotiating environment. He then made a statement on radio telling the sector that in fact an offer was coming. About a month later he wrote and made that offer. All states and territories then thought about whether they believed this was a bona fide offer. Did they believe they were genuine negotiations? Did they have reservations about the way in which the offer was actually put and the integrity of the offer? Should we consider our position as a nation of states and territories in relation to the way in which this negotiation should take place in the securing of a national agreement based upon all states and territories participating and actually receiving access to the funds that had been reported to be available in that letter?

Indeed the states and territories considered that letter seriously and subsequently responded to the commonwealth in writing. We said that as part of a federation of states and territories we were interested in pursuing the offer, we were interested in knowing what would be able to be counted as the matching component going forward, we were interested to tease out what the scope was of the offer from the commonwealth as to what exact services it was talking about and what the basis would be of the funding matching arrangements going forward, and we said we were waiting for the commonwealth to respond to that proposition.

Then — surprise, surprise! — the commonwealth issued a statement. I cannot remember exactly when it was, but it issued a statement a few weeks ago. In that announcement the Prime Minister and the federal minister for community services made a statement about a funding package that was available, made a number of determinations that that funding was going to be provided in isolation and totally independent from the commonwealth state/territory disability agreement. Subsequently the commonwealth minister, Mal Brough, wrote to the states and said the fifty-fifty offer was off.

The commonwealth made an offer. The states and territories doubted the bona fides of that offer and responded by saying, ‘Let’s create an environment in which we can negotiate properly’. The federal minister made a pre-emptive announcement about a funding package in total isolation from how service will be delivered and then subsequently wrote to the states and territory and said the offer was off.

Supplementary question

Mr DRUM (Northern Victoria) — It seems that the minister has today given a totally contradictory answer to the one that he gave Andrea Coote earlier in the week about the same issue. The minister has now told us that he did receive a written letter of offer from Minister Brough in April this year. Did the minister also receive a follow-up letter in May this year warning him that the 8 June deadline was fast approaching and that as yet the commonwealth had not received his response and advising that if he was interested in taking up a dollar-for-dollar offer of new money in the disability sector he had better get his offer in quick smart?

Mr JENNINGS (Minister for Community Services) — Mr Drum should go back to *Hansard* of Tuesday. My answer today is exactly the same as the answer I gave on Tuesday.

ENERGY LEGISLATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. T. C. THEOPHANOUS (Minister for Industry and State Development) on motion of Hon. J. M. Madden.

Statement of compatibility

For Hon. T. C. THEOPHANOUS (Minister for Industry and State Development), Hon. J. M. Madden tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Energy Legislation Amendment Bill 2007.

In my opinion, the Energy Legislation Amendment Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

This is an omnibus bill which has two principal aims:

It promotes electricity generation from small renewable energy sources by strengthening the provisions for feed-in tariffs paid to small wind generators and extending these provisions to other forms of renewable generation including hydro, biomass and solar. This is done by repealing the existing provisions and inserting a new division 5A into part 2 of the Electricity Industry Act 2000 (EIA).

It clarifies the power to make dispute resolution processes under the gas market and system operation rules (MSOR). This is done by amending section 52 of the Gas Industry Act 2001 (GIA). The bill also clarifies the functions and powers of the Victorian Energy Networks Corporation (VENCorp).

In addition, the bill makes minor statutory amendments to the EIA.

Human rights issues

Human rights protected by the charter are unlikely to be affected by the bill, as the bill will affect licensees that are corporations rather than individuals. Licensing under the EIA, and participation in the national electricity market pursuant to the national electricity law and rules, attract substantial prudential and technical obligations. This is also the case under the GIA and the gas pipelines access law and code. All current licensees under the EIA and GIA are corporations and licensing of individuals is considered unlikely.

In the event licensees are individuals, the bill technically engages the right not to be deprived of property in section 20 of the charter as 'property' includes statutory rights such as licences. While the bill affects such property by imposing new licence conditions, the right is not limited as the licensee is not substantially deprived of the use of the licence.

As well, the amendments in the bill to section 52 of the GIA technically engage the right to a fair hearing in section 24 of the charter if individuals participate in the gas market governed by the MSOR. While the MSOR establish alternative dispute resolution processes, the right is not limited as those processes do not preclude a public hearing and the dispute resolution panels are independent, required to observe the rules of natural justice and subject to court oversight.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise any human rights issues.

Theo Theophanous, MP
Minister for Industry and State Development

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Bracks government is committed to tackling climate change and to establishing practical measures to achieve reductions in greenhouse gas emissions. This bill will fulfil our promise to legislate to require electricity retailers to purchase power from small-scale renewable generators at a fair price.

Feed-in tariffs are the amounts paid by retailers to buy power generated by customers and supplied to the network. The bill amends the Electricity Industry Act 2000 (EIA) to promote the generation of electricity from small, renewable energy sources. It does this by strengthening the current provisions for feed-in tariffs paid to small wind generators and extending these provisions to other forms of renewable generation including hydro, biomass and solar.

Clause 3 of the bill inserts several provisions in the EIA, including a new section 40G. This section will require licensed electricity retailers to publish the prices, terms and conditions under which they will purchase electricity generated by small, renewable source generators under 100 kilowatts capacity. The bill will therefore provide clarity and transparency for those who are less able to negotiate feed-in tariffs for power with retailers.

The prices, terms and conditions published by a licensee under section 40G must be fair and reasonable.

Where a licensee publishes prices, terms and conditions under section 40G, the minister may refer them to the Essential Services Commission (ESC) for assessment as to whether

they are fair and reasonable. If the ESC considers that the prices, terms or conditions are not fair and reasonable, it must recommend ones it considers to be so. The minister may then declare that these prices, terms and conditions apply to the licensee named in the declaration.

If a licensee fails to publish relevant prices, terms and conditions under section 40G, the minister is empowered to request the ESC to determine prices, terms and conditions which are fair and reasonable and recommend them to the minister. The minister may then declare that these prices, terms and conditions apply to the licensee named in the declaration.

Clause 4 of the bill repeals a spent provision in the EIA. The provision, section 19(5), relates to the process for licensing of the Snowy Hydro Corporation. As the licensing process was completed in 2004, this provision can be repealed.

Clause 7 of the bill amends the Gas Industry Act 2001 to clarify the power to include dispute resolution processes in the market and system operation rules. The bill also clarifies that the rules may confer functions and powers on the Victorian Energy Networks Corporation (VENCorp).

Lastly, the bill makes minor statute law revision amendments to the EIA.

I commend the bill to the house.

Debate adjourned for Mr VOGELS (Western Victoria) on motion of Mr P. Davis.

Debate adjourned until Thursday, 26 July.

ADJOURNMENT

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the house do now adjourn.

Rail: Terang level crossing

Mr VOGELS (Western Victoria) — The matter I wish to raise is for the Minister for Public Transport and relates to the highly dangerous situation that exists at the railway crossing on Dalvui Lane, Terang, in south-west Victoria. The crossing is a short distance along Dalvui Lane, just off the Princes Highway, and is one of the 65 per cent of passive level crossings around the state with no boom barriers, flashing lights or bells installed. The action that I seek is for the minister to order an immediate safety audit of this crossing with a view to flashing lights being installed as a matter of urgency, given the extremely high number of vehicles which travel along this road and through the crossing.

Dalvui Lane is the main access road to the Terang Harness Racing Club, which conducts 22 TAB meetings each season and holds 30 trial days annually. The harness club also hosts many social functions that are interspersed at irregular intervals throughout the year. The race meetings attract an average of 100-plus horses per meeting and 550 patrons on race day. On Terang Cup night there are about 2000 people and 120 horses in attendance, plus ponies which compete on the night, together with their handlers.

The majority of these people travel through the rail crossing, a large number with horse floats in tow. On cup night, with the racetrack lights working at full strength, it is extremely difficult to distinguish train lights from racetrack lights and this, coupled with a train being barely distinguishable from its surrounds, makes for a potentially deadly mix. There have been a number of incidents at the crossing involving trains, vehicles and horse floats. Fortunately they have not resulted in loss of human life, although in one incident a horse had to be destroyed after a car and float were hit on the crossing.

The harness club employs approximately 75 staff who all pass through the crossing daily to attend their workplace. In addition there is the operation of the local school buses, which cross twice daily, together with petrol tankers, milk tankers and B-double trucks carrying hay. I am confident that an audit will confirm what local residents and Terang Harness Club officials and patrons already know — that is, that the crossing urgently needs upgrading with the installation of flashing lights. I urge the minister to act promptly on this matter.

Bayside: planning scheme amendment

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the Minister for Planning. I am going to read from the *Bayside News*:

In 2001, the Association of Bayside Municipalities … initiated a report to investigate and address stormwater pollution in Port Phillip Bay. Minister John Thwaites launched the clean stormwater strategy … in 2004, and shortly after Bayside City Council took on the challenge of preparing a pilot planning scheme amendment to address some of the issues raised in this report.

Council subsequently developed an amendment to the Bayside planning scheme, known as amendment C44, aimed at improving the quality of stormwater discharged from new residential and commercial developments.

Considerable work was undertaken by council to draft controls into amendment C44 that would reduce the amount of stormwater polluting Port Phillip Bay, by applying water sensitive urban design … principles. These included tanks and diversion systems to reduce the damage caused by stormwater run-off.

Not a single opposing submission was received when the draft amendment was exhibited, so council adopted

amendment C44 in June 2005 and referred it for approval to the Minister for Planning in July 2005.

If fully implemented, Bayside could save as much as 65 per cent of property stormwater discharges from being released into Port Phillip Bay (for use in other environmentally sustainable ways), but no further analysis has been done as this amendment is yet to be approved.

The council has advised me that Melbourne Water is very supportive and that 10 other bayside councils are awaiting the result on a proposal that is seen as an industry leader. Bayside wrote in February 2007 to Minister Madden asking for a decision and reasons for delay. No response or even acknowledgement of the letter was received. Bayside wrote again to Minister Madden on 15 May asking for a time frame and a reply, and to date still has had no response. Some 19 months later, we are still awaiting a decision on the amendment.

As I said, there was extensive consultation during the exhibition of the amendment, with no objecting submissions. This in itself is a significant achievement and is indicative of the correctness of the approach taken in the amendment. My request to the minister is that he make a speedy final decision on amendment 44 to the Bayside planning scheme.

Schools: English curriculum

Mr THORNLEY (Southern Metropolitan) — My matter is for the attention of the Minister for Education. I have a potential curriculum change that I would like the minister to investigate. I believe there has been quite wide-ranging criticism from the dancing bears in the conservative press of the apparent overabundance of various forms of postmodernism and other apparently terrible things in the English and related curriculums, and I want to make a suggestion for a very concrete change to focus on realistic, day-to-day, non-postmodernist, non-deconstructed and genuine common-or-garden and fact-based material to be added to the curriculum.

I was hoping to see that all students — every student — would be required in future to read as an item of compulsory material a new book that has just come out written by Peter van Onselen and Wayne Errington, the title of which is, as I recall, *John Winston Howard — The Biography*. It is an excellent book. It is a study in modern politics and power and in what happens to long-term governments when they lose track of what matters to ordinary people.

The DEPUTY PRESIDENT — Order! I trust that this is a proper adjournment item and not an exercise in satire, because the adjournment debate is not a time for satire. Mr Thornley can take to the stage, if that is his intention. I trust that in the remaining time he has available he will proceed to a substantive point.

Mr THORNLEY — I have already outlined the nature of my request of the minister, which is that that text be added to the curriculum, and that request stands. I do not think it will cost too much, because I think the book will be remaindered some time after November, so by next year there should be lots of copies of it available fairly cheaply.

The DEPUTY PRESIDENT — Order! I rule that item out of order on the basis that it has little to do with the minister and really is not a substantive adjournment item.

Mordialloc Creek Bridge: reconstruction

Mrs PEULICH (South Eastern Metropolitan) — The matter I wish to raise is for the attention of the Minister for Small Business. It is in relation to the Mordialloc bridge, a petition signed to date by in excess of 2000 people, which I have tabled in the house, and a notice of motion standing in my name. That motion deals with matters — this is not anticipating debate — concerning the transport minister. The matter I wish to raise now is for the attention of the Minister for Small Business, and it is in relation to the small traders and retailers along the Mordialloc shopping strip who have been dramatically impacted upon by the Mordialloc bridge reconstruction debacle that has seen traffic bank up from the Mordialloc bridge to beyond White Street. In fact today I received an email from a White Street resident saying that it now takes him 10 to 15 minutes merely to get out of his driveway in White Street, and people living on Nepean Highway are having similar problems.

Basically what this reconstruction work has done is wipe out a very substantial amount of trade for local businesses. Many of them have reported significant declines in business in excess of 30 per cent. Many of them have failed to reach break-even point, and many are now beginning to retrench staff, reduce their hours or dismiss staff altogether. Many of the traders are going to have problems meeting their quarterly business activity statement and pay-as-you-go obligations to the Australian Taxation Office.

I ask the minister to see what he can do to assist those traders, possibly by expediting the reconstruction or minimising the impacts of the reconstruction on them, first and foremost by using the stature of his office and his department to exert pressure on VicRoads, the local council and local Labor Party members to have this

problem resolved and by seeing what support can be given to the traders to assist them through these dramatic times. Many of them have invested their life savings into their businesses, and many of them report that within six to eight weeks they will be out of business and in substantial debt.

The bridge reconstruction is scheduled to last something like 16 months. The traders will not be able to survive that, and it will cost a lot of jobs. I call on the minister to do whatever is in his power to influence other relevant ministers and to use the resources of his department to assist the small traders and to see them through these hardships that have been caused by circumstances not of their own doing. These circumstances have not resulted from their business decisions but have been forced upon them in a most serious and unjust way.

Minister for Aboriginal Affairs: Horsham visit

Ms PULFORD (Western Victoria) — My adjournment matter is for the Minister for Aboriginal Affairs in this place, Gavin Jennings. Last month Minister Jennings indicated that he would be able to come to Horsham in my electorate of Western Victoria Region to officially open the Horsham North Community House, the base from which hard workers like Eddie Hadzig are running the Horsham North community engagement project. I was pleased to hear that the minister has now confirmed a date next month for that visit.

In addition to the opening of this facility, I think it is worthwhile for Minister Jennings to be shown a wonderful initiative that is happening at Horsham College. Six years ago Horsham College set up a Koori unit to provide a place for Koori students to go where they can feel safe and comfortable at any time. In creating this environment a primary goal of the unit is to improve the literacy, numeracy and school attendance of indigenous students.

Two of my favourite aspects of this program — and something that is timely, given that last week was NAIDOC Week and following on from my statements in the house this morning — are that the unit welcomes non-indigenous children and that Koori officers conduct awareness and education sessions for all students and teachers at the college. This shows that not only does this unit aim to benefit the local indigenous community at the college, but it also encourages integration and understanding between all students and staff, whether they are from an indigenous background or not.

It has been a lot of hard work for the principal of Horsham College, Ian Trigg, and his staff to keep this program going and to make it the success that it is. Given the large indigenous population in the Horsham region and the Bracks government's commitment to improving the state of Aboriginal affairs, I feel that it is important that such a great initiative be shown to the minister. I ask the Minister for Aboriginal Affairs to join me in being shown the Koori unit at Horsham College to have a look at the way this program is being run and to consider duplicating its successes in other programs.

Hazardous waste: Tullamarine

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Planning, but before doing so it might be appropriate to pass on my congratulations and good wishes to Matthew Richardson for his 250th game for the mighty Tigers on Sunday. We wish him well.

The Tullamarine toxic waste dump has been an ongoing issue for many years and is continually a source of bemusement and concern to a good many people throughout the north-west of Melbourne. There is huge community concern, and there is also huge community confusion, about its future. I could go into the history of it, but I have only a little over 2 minutes available, and it is quite a long and convoluted affair.

The biggest question at the moment is: will this dump close, as the local community is expecting it to, in 2010? That is the crux of the issue I wish to raise with the minister today. During question time with some delight I heard the minister say that he is always pleased to receive invitations to meet people from his electorate, and I am hoping that on this occasion he may well accept my invitation to visit the Westmeadows Hall at a date of his choosing. I will reach into my pocket and pay for the hire of the hall. I invite the minister to attend on that occasion and to explain to the local people in the Tullamarine, Gladstone Park and Westmeadows areas exactly what is going on with the Tullamarine toxic waste dump.

The house would be aware that the minister has recently claimed all planning responsibilities for this facility, if we can call it that, and I know the local people in that area are very keen to find out exactly what is going on. If the minister accepts my invitation to come out and face off with the people of that area, I am sure they will be very grateful indeed to know what is going on. I will even take him down to the old Broady afterwards and buy him a beer if he is so inclined.

This is an issue of enormous community concern to thousands of my constituents in that general area. The facility is immediately opposite Melbourne international airport, and of course an industrial accident there could spell disaster for the thousands of people who not only live around there but work at the airport on a daily basis.

I ask the minister to let me know when he is free. Whenever the minister is free, I will be free. I will hire the hall and I am sure we will fill it. I look forward to having the minister explain to the good people of that area exactly what is going on.

Housing: disruptive tenants

Mrs KRONBERG (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Housing in the other place, who is also the Minister for Local Government. For a number of years residents in Ringwood North, in particular in the areas of Kenwood Crescent, Fiona Court, Duncan Court, Epacris Court, Ashton Close, Berkley Road and Lilian Parade, have become increasingly concerned about the behaviours of individuals presently residing at 10 Kenwood Crescent, Ringwood North. Apparently the property is providing low-cost rooming house accommodation for up to 10 people at any one time. It is likely that the tenants of this property are individuals requiring post-release services and that their time spent at the property is designed to assist in their transition after spending time in mental health care, or incarceration within the criminal justice system.

The concerned residents have documented many incidents and behaviours that are frightening families in this formerly quiet and safe neighbourhood, an environment once proud of its residential amenity. Problems include the run-down and general state of disrepair of the rooming house property and residents congregating to drink alcohol, yelling obscene language and fighting both in the street and in front gardens during the night and in the early hours of the morning. Residents have had bottles and other missiles thrown at their properties.

In general there is an increasing climate of fear and worry in this neighbourhood with residents and their families refusing to allow their children to walk past the rooming house. Grandparents in the neighbourhood are suffering as their grandchildren are no longer permitted to visit because of the alarming and seemingly unbridled violent behaviours.

I realise that the minister is already fully informed about this matter because of correspondence from his department dated 22 June. However, the 100 residents now meeting are not appeased by the department's response to their constellation of concerns. While there must be low-cost accommodation available for individuals who are in a post-release phase, I ask that the minister reports back to this house with his plans to review legislation governing the operation and management of rooming houses which are currently collectives of unsupervised individuals whose antisocial conduct is terrifying entire neighbourhoods. This is an urgent matter where the rights of a small number of individuals are trammelling the rights of literally hundreds of law-abiding citizens.

Youth: alcohol abuse

Mr DRUM (Northern Victoria) — My adjournment matter is for the attention of the Minister for Consumer Affairs in the other place, Daniel Andrews. One of the real challenges facing parliamentarians is about asking ourselves whether we are doing enough to fight the growing problem of alcohol use and abuse by our children. Drugs and alcohol are commonly lumped together, and due to the dramatic and sensational nature of the illicit drug scene, the anti-drug and alcohol campaign is usually centred around the illicit drug sector.

From talking to the Victorian Alcohol and Drug Association and also the Youth Substance Abuse Service, especially to David Murray, who is the chief executive officer, and Kerry Donaldson, I have learnt that they are very strong advocates of the view that whilst all drug and alcohol campaigners understand it is a huge problem, the one part of the argument that we are missing is that alcohol is by far the biggest problem that we have in this sector. The increase in the availability and range of alcohol, especially the cooler market — the pre-mixed drink market — is also a worrying trend. In recent years there have been tax changes to do with the GST that have made these drinks even cheaper than they once were.

My request to the minister is that he conduct a survey of Victorians aged 16 and 17 so that we can accurately ascertain how these minors are gaining access to alcohol. Only once we fully understand how our kids are getting their alcohol can we then put in place the necessary constraints so that we can make it considerably harder for young Victorians to access alcohol. Maybe then, as Victorian parliamentarians, we can actually make a difference to the amount of alcohol that is being consumed by minors in this state.

Pakenham bypass: Koo Wee Rup

Mr O'DONOHUE (Eastern Victoria) — My matter is for the Minister for Roads and Ports in the other place. It concerns the imminent opening of the Pakenham bypass and the effects that will have on those communities that live near the bypass and that will experience increased traffic flows as a result of the opening of that bypass. In particular, I am talking about the residents who live in Koo Wee Rup.

Currently VicRoads is investigating the upgrade of the Healesville-Koo Wee Rup Road from Pakenham to Koo Wee Rup. Unfortunately VicRoads is unwilling to look at the bypass of Koo Wee Rup in isolation to the upgrade of that entire road. The upgrade of that entire road is proposed in the medium to long term to be a full duplication and will cost, I imagine, several hundred million dollars.

The actual bypass of Koo Wee Rup itself, however, is a relatively minor project in comparison and estimates are that it will cost in the vicinity of $11 million to $12 million. The federal government has already put on the table $5.5 million. Unfortunately the state government is refusing to match that generous offer by the federal government.

The bypass is urgently required because at the moment the traffic from the Healesville-Koo Wee Rup Road ends in the centre of Koo Wee Rup at a T-intersection. Once the bypass opens it is anticipated that traffic volumes will increase significantly with people using the Pakenham bypass and the Healesville-Koo Wee Rup Road as an alternative route to South Gippsland and the Bass Coast, instead of using the South Gippsland Highway through Cranbourne and further on. It is an urgent matter and it is an indictment of the government that it has not planned ahead for this to happen when the Pakenham bypass opens.

The actions I request from the minister are twofold. They are, first, to isolate the Koo Wee Rup bypass from the larger project of the upgrade of Healesville-Koo Wee Rup Road and to make progression of that project a priority, and second, to match the generous funding provided and announced by the commonwealth government of $5.5 million so this project can happen as soon as possible to save the people of Koo Wee Rup.

Responses

Hon. J. M. MADDEN (Minister for Planning) — Mr Vogels raised the matter of a railway crossing in Terang, and I will refer that to the Minister for Public Transport in the other place.

Ms Pennicuik raised the matter of the stormwater mitigation strategy of Bayside City Council which is sought under amendment C44. I am happy to search for that in the department to find out where it is at this stage. One can only suspect that because it relates to the possible effects on the building stock and the interrelationship between building regulation and planning regulation, the council having sought to implement environmental sustainability measures through the building regulatory area rather than through the planning area, it might be one of those anomalies the department is still seeking answers for. I will search for it, find out its status and seek to find an answer as quickly as possible.

Mrs Peulich raised the matter of the Mordialloc Creek Bridge and the effect on surrounding traders, and I will refer that to the Minister for Small Business.

Ms Pulford raised the matter of the Horsham community house and other programs in relation to the Koori community. I will refer that to the Minister for Aboriginal Affairs, Gavin Jennings.

Mr Finn raised the matter of the Tullamarine landfill. I am happy to provide him with some information in relation to that as I stand here. I will do it as quickly as I possibly can. There are two issues here, as I mentioned earlier in question time. I understand the EPA (Environment Protection Authority) has provided an extension to the Tullamarine landfill site in relation to a number of matters. Recently a local community group lodged an application for a review at VCAT (Victorian Civil and Administrative Tribunal) relating to the works approval that was issued by the EPA. As I mentioned earlier today, I have decided to call in this review in response to a request from the Minister for Water, Environment and Climate Change.

I have agreed to the request to call this in because the matter under review raises a major issue of policy. I have also decided to call in the planning permit application from the Hume City Council that relates to the planning approval required to carry out the construction of the biocell. So there are two issues. This action is considered appropriate as the planning application is substantially the same as the issue I have also called in from VCAT and they can be considered concurrently. I intend to give notice in relation to that — —

Mr Finn interjected.

Hon. J. M. MADDEN — I ask Mr Finn to let me finish. I expect that both will be combined into the one advisory panel for consideration, as I mentioned today,

and that this independent process will provide recommendations to me on how to resolve the matter.

It is also worth bearing in mind that the EPA stated at the time of its decision that no hazardous waste will be accepted at the facility from October 2009. But that is not to say that the advisory panel may or may not make recommendations in relation to whether that is an appropriate time or not.

Mr Finn — So it may stay open?

Hon. J. M. MADDEN — I think it is highly unlikely it will be extended beyond that. The EPA has stated that no more hazardous waste will be accepted at the facility from October 2009, but I look forward to the panel, and I would suspect that it would only shorten that period of time, if anything, rather than extend it. I am not pre-empting any decision, but I look forward to the recommendations the panel may or may not make in relation to those matters.

Mr Finn interjected.

Hon. J. M. MADDEN — I thank Mr Finn for the offer of the beer, but I have to decline, not that I have not been to the old Broady pub. I thank him for the invitation, but I suspect my future announcements in relation to this matter will probably do justice to the matter, and I am also keen that the local residents be informed accordingly.

Mrs Kronberg raised for the Minister for Housing in the other place a matter concerning rooming houses. I know these are often contentious issues, and I will refer that to the minister.

Mr Drum raised the matter of the increasing availability of alcohol, particularly in relation to minors or the younger members of our community. I will refer that to the Minister for Consumer Affairs in the other place.

Mr O'Donohue raised the matter of the Pakenham bypass and the effect on Koo Wee Rup and the potential for a Koo Wee Rup bypass. I am happy to refer that to the Minister for Roads and Ports in the other place.

The DEPUTY PRESIDENT — Order! The house stands adjourned.

House adjourned 3.37 p.m. until Tuesday, 7 August.